

GOVERNMENT REGULATIONS

SHIPPING

(Law of Republic of Indonesia No. 17 Year 2008 dated May 7, 2008)

WITH THE BLESSING OF THE ONE AND ONLY GOD
THE PRESIDENT OF REPUBLIC OF INDONESIA,

Considering:

- a. that the Unitary State of the Republic of Indonesia is an archipelago characterized by cross-roads united by very wide waters with borders, rights and obligations stipulated by Law;
- b. that in the effort to achieve national objectives based on Pancasila and the 1945 Constitution, to realize the Archipelago Concept, and to consolidate national resilience, a National Transportation System is required to support economic growth, development of the regions, and to strengthen the sovereignty of the State;
- c. that shipping consisting of transportation on water, harbor-affairs, shipping safety and security, and marine environment protection, constitute a part of the national transportation system which must be developed as of its potentials and role to realize an effective and efficient transportation system, and to assist the realization of a consolidated and dynamic national distribution system;
- d. that the development of national and international strategic environment demands the performance of shipping conforming to the development of science and technology, participation of the private sector and business competition, regional autonomy, and the accountability

of the performers of the State, by prioritizing shipping safety and security for the national interest;

- e. that Law No. 21 year 1992 concerning shipping is no more in conformance with requirements of the performance of present , and therefore should be replaced by a new Law;
- f. that based on the considerations referred to in letters a thru e, it is necessary to form a Law on Shipping.

In view of:

Article 5 sub-article (1), Article 25A, and Article 33 of the 1945 Constitution of the Republic of Indonesia)

Through a Joint Agreement,

THE HOUSE OF REPRESENTATIVES OF
THE REPUBLIC OF INDONESIA

And

THE PRESIDENT OF THE REPUBLIC OF INDONESIA

D E C I D E :

To stipulate:

LAW ON SHIPPING

CHAPTER I

GENERAL PROVISIONS

Article 1

In this Law, what is meant by:

1. shipping is a system unit consisting of water transportation, harbor-affairs, safety and security, and marine environment protection .
2. Indonesian waters is the Indonesian territorial seas with its archipelagic waters and inland waters.
3. Water transportation is an activity to transport and/or remove passengers and goods by using ships.
4. Special Sea Transportation is a transportation activity to serve the interests of own-business to support its main business.
5. People Shipping Sea Transportation is the people's business traditional in nature and having its own characteristics to carry out water transportation by using Indonesian flag-carrier sailing ships, motor sailing ships and/or simple motor ships with certain tonnages.
6. Route is the route or lane of transportation activity from one port to another.
7. General agent is a national sea transport company or national companies specially established to carry out shipping agency business, appointed by overseas sea transportation companies to manage the interest of its ships while in Indonesia.
8. Pioneer Shipping are transportation services on water at routes stipulated by the Government to serve areas or regions not yet or not served by water transportation because it still cannot yield commercial benefits.
9. Related Service Businesses are business activities having a nature of expediting activities process in the field of shipping.
10. Multi-mode Transportation is the transportation of goods using at least two (2) different transportation modes based on one (1) contract using multimode documents from the place of receiving the goods by multimode transportation operators to a place determined for the delivery of such goods.
11. Main business is the type of business stated in the business permit letter.
12. Ship mortgage is material mortgage right on a registered ship to guarantee certain debts providing a prioritized position to the creditor to a certain creditor on another creditor.
13. Prioritized Shipping Debt is a claim which must be firstly settled from the result of the execution of the ship than the claim of holder of ship mortgage claim.
14. Harbor-affairs is everything related with the performance of port functions to support the smoothness, security and orderly traffic flow of ships, passengers and/or goods, sailing safety and security, place of transfer of intra and/or inter mode and to push the national and regional economy by still observing regional spatial layout.
15. National Harbor-affairs Order is a port system containing the role, functions, types, port hierarchy, National Port Main Plan, port locations, and the integration of intra and inter modes, as well as the integration with other sectors.
16. Port is a place consists of land and/or water with certain borders as a place for government activities and exploitation activities used as dock for ships, embarkation/dismbarkation of passengers, and/or loading and/or unloading of goods, in the form of terminal or to harbor ships equipped with safety and security facilities and port support activities, and as a place of transfer intra and inter mode transportation.

17. Main harbor is the port where-in its primary function is to serve domestic and international sea transportation activities, transfer of loading of domestic and international sea transportation in large volume, and as port of origin/destination of passengers and/or goods, and ferry transportation with inter-province service coverage.
18. Collecting port is a port where-in its primary function is to serve national sea transportation activities, transfer of loading of national sea transportation in medium volume, and as port of origin/destination of passengers and/or goods, and ferry transportation with inter-province service coverage.
19. Feeder port is a port where-in its primary function is to serve national sea transportation activities, transfer of loading of national sea transportation in limited volume, and as port of origin/destination of passengers and/or goods, and ferry transportation with inter-province service coverage.
20. Terminal is a port facilities consisting of anchorage pool and where ships dock or towed, collection place, waiting and embarking/disembarking place for passengers and/or loading/unloading of goods.
21. Special terminal is a terminal located outside of the Work Environment Area and Interest Environment Area of the port constituting a part of the nearest port to serve own-interest in accordance with its main business.
22. Terminal for own-interest is a terminal located within the Work Environment Area and Interest Environment Area of the port constituting a part of the nearest port to serve own-interest in accordance with its main business.
23. Work Environment Area is the water and land areas at a port or special terminal used directly for port activities.
24. Interest Environment Area is the waters around the Work Environment Area of the port waters used to ensure shipping safety.
25. Port Main Plan is the arrangement of port space in the form of allotment of plan on land and water in Work Environment Area and Interest Environment Area of a port.
26. Port Authority is a government agency in a port as the authority to perform the functions of regulating, control, and supervision of port affairs activities exploited commercially.
27. Port Performer Unit is a government agency in a port as the authority to perform functions of regulating, control, and supervision of port affairs activities, and to provide services on port affairs for ports not yet exploited commercially.
28. Port Business Entity is a business entity where-in its business activities are particularly in the field of exploiting a terminal and other port facilities.
29. Port pool is the waters in front of a dock used for operation purposes for docking and ship movements.
30. Space layout is the form of space structure and space pattern.
31. Spatial arrangement is a planning process system on the layout, space utilization, and control of space utilization.
32. Shipping safety and security is a condition meeting the requirements on safety and security aspects concerning transportation on land, port affairs and marine environment.

33. Ship worthiness is the condition of a ship meeting the requirements on ship's safety, prevention of pollution of waters by ship, manning, loading line, loading, prosperity of crew, health of passengers, legal status of ship, management of safety and prevention of pollution from ship, and the management of ship's security to sail in certain waters.
34. Ship's safety is the condition of a ship meeting the requirements on material, construction, installation, machinery and electricity, stability, composition, and ancillaries including rescue equipment and radio, ship's electronics, proved with certificates following checks and tests.
35. Classification Body is a ship classification agency performing the regulating of ship's construction strength and machinery, quality assurance of marine material, supervision of building, maintenance, and renovation of ship in accordance with classification regulations.
36. Ship is a water vehicle with certain forms and types, powered by wind energy, mechanical energy, and other energies, towed or tugged, included as dynamic support power vehicle, sub-surface vehicle, and float means and non-removable floating building.
37. War-ships are ships of the Indonesian National Armed Forces stipulated in accordance with provisions of statutory regulations.
38. State ships are State-owned ships used by certain Government agencies provided with functions and authority in accordance with provisions of statutory regulations for the enforcement of law and other governmental duties.
39. Foreign ships are ships carrying flags other than the Indonesian flag.
40. Ship crew are people working or assigned on board by the ship's owner or operator to perform duties on board in accordance with his position stated in the certificate book.
41. Captain is one of the ship's crew who is the top leader in a ship and has certain authority and responsibility in accordance with provisions of statutory regulations.
42. Sailors are ship's crew other than the Captain.
43. Navigation is everything related with Aid Means for Shipping Navigation, Shipping Telecommunication, hydrograph and meteorology, lanes and lane-crossings, dredging and reclamation, guiding, handling of ship frame, salvage and underwater works for the sake of ship safety.
44. Navigate is a process to direct ship movement from one point to another safely and smoothly as well as to avoid dangers and/or shipping obstacles.
45. Shipping lanes are waters which from the aspect of depth, width and free from other obstacles to shipping, are deemed to be safe and secure to be sailed through.
46. Aid Means for Shipping Navigation are equipment or systems outside of a ship, designed and operated to improve the safety and efficiency of ship navigation and/or ship traffic.
47. Shipping Telecommunication is special telecommunication for the purpose of shipping service in the form of any transmission, sending or receipt of any kind of symbol, image, voice and information in any form by cable, optic, radio, or other electromagnetic system in moving shipping service being a part of shipping safety.

48. Guiding is scout activities in assisting, providing advices and information to the Captain concerning important local water condition so that shipping navigation can be performed safely, orderly, and smoothly for the sake of the safety of ship and the environment.
49. Scout-Obligation Water is a water region which due to the condition of the waters, obligates guiding to ships sailing through it.
50. Scout is a sailor having the expertise in nautical fields having met requirements to execute ship guiding.
51. Underwater works are works related with installations, constructions, or ship, performed under water or works under the water having special nature, i.e. the use of underwater equipment operated from water surface.
52. Dredging is work to change the form of the waterbed to achieve the desired depth and width or to take waterbed material to be used for certain purposes.
53. Reclamation is a work on piling-up in waters or coasts to change the coastline and/or water depth contour.
54. Ship frame is any ship drowned or aground or cast ashore and had been abandoned.
55. Salvage is work to provide aid to a ship and/or its load encountering an accident or is in danger condition in waters, including bringing up ships frame or underwater obstacles or other things.
56. Harbor Master is a Government official in a port commissioned by the Minister and having the highest authority to carry out and perform supervision on the fulfillment of provisions of statutory regulations to ensure shipping safety and security.
57. Marine Environment Protection is any effort to prevent and to tackle water environment pollution originating from activities related with shipping.
58. Shipping Court is a panel of experts under and responsible directly to the Minister having the duty to make follow-up investigations on ship accidents.
59. Sea and Coast Guard is an institution performing functions of guarding and enforcing statutory regulations at sea and coasts established and responsible to the President and technically operational performed by the Minister.
60. Business entities are State owned business entities, Region-owned business entities, or Indonesian business entities particularly established for shipping.
61. Any Person are individuals or corporations.
62. Central Government, hereinafter referred to as Government, is the President of the Republic of Indonesia, holding the authority of the Government of the Republic of Indonesia as referred to in the 1945 Constitution of the Republic of Indonesia.
63. Regional Government is the Governor, Regent/Mayor and area apparatus as Regional Government Performer elements.
64. Minister is the Minister having the duties and responsibility in the area of shipping.

CHAPTER II

PRINCIPLES AND OBJECTIVES

Article 2

Shipping is performed based on:

- a. principle of benefit;
- b. principle of joint enterprise and familiarity;
- c. principle of healthy competition;
- d. principle of justice and equality without discrimination;

- e. principle of balance, harmony and conformity;
- f. principle of public interest;
- g. principle of synchronization;
- h. principle of rule of law;
- i. principle of independence;
- j. principle of living environment vision;
- k. principle of State sovereignty; and
- l. principle of nationality.

Article 3

Shipping is performed with the objectives:

- a. to expedite the movement of people and/or goods thru water by prioritizing and protecting transportation on water in the context of expediting national economy activities;
- b. to develop maritime spirit;
- c. to support State sovereignty;
- d. to create a competitive power by developing national water transportation industry;
- e. to support, mobilize, and motivate the achievement of national development objectives;
- f. to strengthen nation unity and integrity in the framework of the realization of the Archipelago Concept
- g. to enhance national resilience.

CHAPTER III

LAW APPLICABILITY SCOPE

Article 4

This Law is applicable for:

- a. All transportation activities on water, harbor-affairs, safety and security, and marine environment protection in Indonesian waters;

- b. All foreign ships sailing in Indonesian waters; and
- c. All Indonesia flag-carriers outside of Indonesian waters.

CHAPTER IV

DEVELOPMENT

Article 5

- (1) Shipping is controlled by the State, and its development is performed by the Government.
- (2) The development of shipping referred to in sub-article (1) covers:
 - a. regulating;
 - b. control; and
 - c. supervision.
- (3) The regulating referred to in sub-article (2) letter a covers the stipulation of general and technical policies, among others the determination of norms, standards, guidance, criteria, planning, and procedure including safety and security requirements and permits.
- (4) The control referred to in sub-article (2) letter b covers the provision of directives, nurturance, training, permitting, certification and technical assistance in the area of development and operations.
- (5) The supervision referred to in sub-article (2) letter c covers supervision activities on the development and operations so as to remain in accordance with statutory regulations, including taking corrective actions and law enforcement.
- (6) The shipping nurturance referred to in sub-article (2) is performed by observing all aspects of the public life and is oriented to:

- a. expedite the flow of mass movements of passengers and goods thru water safely, securely, rapidly, smoothly, orderly, conveniently and effectively, at costs within the reach of the people's purchase ability;
- b. improve the performance of activities of water transportation, harbor-affairs, safety and security, and marine environment protection, as part of the overall transportation modes integrated by utilizing the development of science and technology;
- c. Develop the capability of a sturdy national transportation armada on water and supported by a reliable shipping industry so as to be able to meet transportation requirements, both domestically as well as from and to overseas;
- d. Develop transportation activity business in national waters that is reliable, capable of competing, and supported by facilities to obtain financial aid, taxation dispensation, and a sturdy shipping industry, so as to be able to be independent and to compete.
- e. Improve the capability and role of ports and the safety and security of shipping by ensuring the availability of shipping lanes, harbor pool, and adequate shipping Navigational Aid Means in the context of supporting water transportation.
- f. Realize human resources with maritime spirit, professionalism, and capable of following the development of shipping performance requirements; and
- g. Meet marine environment protection thru efforts in the prevention and tackling of pollution originating from transportation activities in the waters, ports, as well as safety and security.

- (7) The regional governments perform shipping nurturance referred to in sub-article (6) in accordance with its authority.

CHAPTER V

WATER TRANSPORTATION

Part One

Article 6

Types of water transportation consist of:

- a. Sea transportation;
- b. River and lake transportation; and
- c. Ferry transportation.

Part Two

Paragraph 1

Types of Sea transportation

Article 7

Sea transportation consists of:

- a. Domestic sea transportation;
- b. Overseas sea transportation;
- c. Special sea transportation; and
- d. People's shipping sea transportation.

Paragraph 2

Domestic Sea transportation

Article 8

- (1) Activities of domestic sea transportation are performed by national sea transportation companies using Indonesian flag-carrier ships and manned by Indonesian citizens.

- (2) Foreign ships are prohibited to carry passengers and/or goods between islands and between ports within Indonesian territorial waters.

Article 9

- (1) Activities of domestic sea transportation is compiled and carried out integrated, both intra-mode as well as inter-mode constituting a unity in the National Transportation System.
- (2) Activities of the domestic sea transportation referred to in sub-article (1) are performed with fixed regular route (*liner*) and may be complemented with non-fixed irregular route (*tramper*).
- (3) Activities of domestic sea transportation serving fixed regular routes are performed within a route net.
- (4) Activities of the fixed regular route of domestic sea transportation is compiled by paying due observance on:
- a. development of centers of industries, trade, and tourism;
 - b. development of regions and/or areas;
 - c. spatial layout general planning;
 - d. integrity of transportation intra / inter modes; and
 - e. realization of the Archipelago Concept.
- (5) The compilation of the fixed regular route net referred to in sub-article (4) is performed jointly by the Government, regional governments, and association of national sea transportation companies by paying due observance on inputs from the association of sea transportation users.
- (6) The fixed regular route net referred to in sub-article (5) is stipulated by the Minister.
- (7) The operations of ships in the fixed regular routes referred to in sub-article (5) is performed by the national sea transportation by considering:
- a. Sea-worthiness of ships;
 - b. Using Indonesian flag-carriers and manned by Indonesian citizens;
 - c. Balance between demand and the availability of space;
 - d. Condition of visited port lanes and facilities; and
 - e. Type and tonnage of ships in accordance with requirements.
- (8) The operations of ships in the irregular non-fixed route referred to in sub-article (2) is performed by national sea transportation companies and is obliged to be reported to the Government.

Article 10

Further provisions on domestic sea transportation activities shall be regulated with Government Regulations.

Paragraph 3

Overseas Sea Transportation

Article 11

- (1) Sea transportation activities from and to overseas are performed by national sea transportation companies and/or foreign sea transportation companies using Indonesian flag-carrier ships and/or foreign ships.
- (2) The Sea transportation activity referred to in sub-article (1) is performed so that the national sea transportation companies get a logical passengers/cargo portion in accordance with statutory regulations.

- (3) Sea transportation activities to and from overseas referred to in sub-article (1) including border-crossing sea transportation is performed with fixed regular route and irregular non-fixed routes.
- (4) Foreign sea transportation companies may only carry out sea transportation activities to and from Indonesian ports opened for foreign trade, and are obliged to appoint national companies as general agents.
- (5) Foreign sea transportation companies carrying out sea transportation activities to and from Indonesia ports opened for foreign trade continuously shall appoint its representatives in Indonesia.
- (3) The special sea transportation activities referred to in sub-article (1) are performed by using Indonesian flag-carrier ships meeting requirements on ships' sea-worthiness with ships' conditions and requirements conforming to the type of its main business activity.
- (4) The special sea transportation activities referred to in sub-article (1) are prohibited to carry cargo or goods of other parties and/or carrying general cargo or goods except in certain conditions based on permit from the Government.
- (5) The certain conditions referred to in sub-article (4) are in the form of:

- a. unavailability of ships; and
- b. transportation companies capable of serving the demand for such transportation service in whole or in part is not yet available.

- (5) Performers of foreign sea transportation activities carrying out special sea transportation activities to Indonesian ports opened to foreign trade must appoint a national sea transportation company or as performer of the special sea transportation activities as its general agent.
- (7) Performers of special sea transportation activities may only be agents for ships performing the same type of activities as those of its main business.

Article 12

Further provisions on foreign sea transportation activities, general agent, and representative of foreign sea transportation shall be regulated with a Government Regulation.

Paragraph 4

Special Sea Transportation

Article 13

- (1) Special sea transportation activities are performed by business entities to support its main business for its own interest by using Indonesian flag-carrier ships meeting requirements on ships' sea-worthiness and manned by Indonesian citizens.
- (2) The special sea transportation activities referred to in sub-article (1) are performed based on operations permit from the Government.

Article 14

Further provisions on special sea transportation activities shall be regulated with a Government Regulation.

Paragraph 5

People's Shipping Sea Transportation

Article 15

- (1) People's Shipping Sea Transportation activities are business of the community that are traditional in nature and being a part of the water transportation business has an important role and particular characteristics.
- (2) People's Shipping Sea Transportation activities are performed by individual Indonesian citizens or business entities using Indonesian flag-carrier ships meeting requirements on ships' sea-worthiness and manned by Indonesian citizens.

Article 16

- (1) Nurturing of People's Shipping Sea Transportation is performed so that the business life and important role of People's Shipping Sea Transportation can be maintained as part of the potentials of the national sea transportation constituting a unity of the National Transportation System.
- (2) The development of the People's Shipping Sea Transportation is performed to:
 - a. improve services to the hinterland and/or waters having lanes with limited depths including rivers and lakes;
 - b. improve its ability as a field of business on national sea transportation and field of work; and
 - c. improve the competence of human resources and entrepreneurship in the field of national sea transport business.
- (3) The armada of the People's Shipping Sea Transportation may be operated domestically and border crossing, both for fixed regular route as well as irregular non-fixed routes.

Article 17

Further provisions on People's Shipping Sea Transportation activities shall be regulated with a Government Regulation.

Part Three

(To be continued)

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SHIPPING

(Law of Republic of Indonesia No. 17 Year 2008 dated May 7, 2008)

[Continued from Business News No. 7690 pages 1A-10A]

Part Three

River and Lake Transportation

Article 18

- (1) Activities of river and lake transportation domestically is performed by individual Indonesian citizens or business entities using Indonesian flag-carrier ships meeting requirements on ships' sea-worthiness and manned by Indonesian citizens.
- (2) Activities of river and lake transportation between the Republic of Indonesia and neighboring country is performed based on agreements between the Republic of Indonesia and the neighboring country concerned.
- (3) Activities of river and lake transportation between the two countries referred to in sub-Article (2) may only be performed by ships flying Indonesian flag and/or flying the flag of the country concerned.
- (4) Activities of river and lake transportation shall be compiled and performed integrated by observing the intra-mode as well as the inter-mode constituting a unity in the National Transportation System.
- (5) Activities of river and lake transportation may be performed with fixed regular route or non-fixed irregular route.
- (6) Activities of river and lake transportation are prohibited to be carried out in the seas except after receiving a permit from the harbor master by consistently fulfilling requirements on ships' sea-worthiness.

Article 19

- (1) In order to support its main business, it is entitled to perform activities of river and lake transportation for own interests.
- (2) The river and lake transportation activities referred to in sub-Article (1) shall be performed by individual Indonesian citizens or business entities with the Government's permit.

Article 20

Further provisions on river and lake transportation activities shall be regulated with a Government Regulation.

Part Four

Ferry Transportation

Article 21

- (1) Activities of ferry transportation domestically is performed by business entities using Indonesian flag-carrier ships meeting requirements on ships' sea-worthiness and manned by Indonesian citizen crews.
- (2) Activities of ferry transportations between the Republic of Indonesia and the neighboring country shall be performed based on agreements between the Republic of Indonesia and neighboring country concerned.
- (3) Activities of ferry transportations between the two countries referred to in sub-Article (2) may only be performed by ships flying Indonesian flag and/or flying the flag of the country concerned.

Article 22

- (1) Ferry transportation is a transportation functioning as bridge connecting road nets or railway nets separated by waters, to transport passengers and vehicles with its loads.
- (2) The stipulation of the site of ferry transportation referred to in sub-Article (1) is made by taking into consideration:
 - a. development of road nets or railway nets separated by waters;
 - b. function as bridge;
 - c. communication between two ports, between a port and terminals, and between two ferry terminals with certain range;
 - d. not to carry goods unloaded from its carrier vehicle;
 - e. Regional Space Layout Plan; and
 - f. Route net of sea transportation in order to maximize the integrity of intra-mode and inter-mode transportation.
- (3) Ferry transportation is performed using fixed regular routes.

Article 23

Further provisions on ferry transportation activities shall be regulated with a Government Regulation.

Part Five

Transportation in Waters of Areas Still

Under-developed and/or Remote.

Article 24

- (1) Transportation in waters of areas still under-developed and/or remote must be performed by the Government and/or the regional governments.

- (2) Transportation in waters referred to in sub-Article (1) is performed by pioneer shipping and on assignment.
- (3) The pioneer shipping referred to in sub-Article (2) is performed by using funds provided by the Government and/or Regional Governments.
- (4) The assignment referred to in sub-Article (2) is given to national sea transportation companies receiving compensations from the Government and/or Regional Governments in the amount as of the difference of production costs and the tariff stipulated by the Government and/or Regional Governments as public service obligations.
- (5) The pioneer shipping and on assignment shall be performed integrated with other sectors based on region development approach.
- (6) Transportation in waters of areas still under-developed and/or remote shall be evaluated by the Government and/or Regional Governments every year.

Article 25

The pioneer shipping referred to in Article 24 may be performed thru long-term contracts with water transportation companies using Indonesian flag-carrier ships meeting requirements on ships' sea-worthiness and manned by Indonesian citizens.

Article 26

Further provisions on pioneer shipping and on assignment transportation in waters of areas still under-developed and/or remote shall be regulated with a Government Regulation.

Part Six
Transportation Permits

Article 27

In order to perform water transportation activities, individual Indonesian citizens or business entities must possess a business permit.

Article 28

(1) Sea Transportation Business Permit is issued by the:

- a. Regent/Mayor concerned, for business entities domiciled in the regency/city and operating port-crossing within the regency/city;
- b. Governor of the province concerned, for business entities domiciled in the province area, and operating port-crossing inter-regency/city within the province area; or
- c. Minister, for business entities carrying out port-crossing activities between provinces and international ports.

(2) Business Permit for People's Shipping Sea Transportation is issued by:

- a. Regent/Mayor concerned for individual Indonesian citizens or business entities domiciled in the regency/city and operating port-crossing within the regency/city; or
- b. Governor of the province concerned for individual Indonesian citizens or business entities domiciled and operating port-crossing inter regency/city within the province area, inter-province ports, and international ports.

(3) Business Permit for River and Lake Transportation is issued by:

- a. Regent/Mayor for individual Indonesian citizens or business entities in accordance with its domicile or
- b. Governor of the Province of Jakarta Capital Special Area for individual Indonesian citizens or business entities domiciled in Jakarta Capital Special Area.

(4) Besides having to possess the business permit referred to in sub-Article (3), for river and lake transportation, operated ships must possess route permit issued by the:

- a. Regent/Mayor concerned for ships serving routes within the regency/city;
- b. Governor of the province concerned, for ships serving inter regency/city routes within the province area;
- c. Minister, for ships serving between provinces and/or between countries.

(5) Business Permit for Ferry Transportation is issued by:

- a. Regent/Mayor concerned, in accordance with business domicile; or
- b. Governor of the Province of Jakarta Capital Special Area, for business entities domiciled in Jakarta Capital Special Area.

(6) Besides having to possess the business permit referred to in sub-Article (5), for ferry transportation, operated ships must possess ship operations approval issued by the:

- a. Regent/Mayor concerned, for ships serving inter-port routes within the regency/city;
- b. Governor of the province concerned, for ships serving inter regency/city ports within the province area;
- c. Minister, for ships serving ports between provinces and/or between countries.

Article 29

- (1) In order to get the sea transportation business permit referred to in Article 28 sub-Article (1), business entities must possess ships flying Indonesian flag with a tonnage of at least 175 GT (one hundred seventy five Gross Tonnage).
- (2) Individual Indonesian citizens or business entities are allowed to cooperate with foreign sea transportation companies or foreign business entities or foreign citizens in the form of joint venture by establishing a sea transportation companies possessing at least one (1) unit of ship flying Indonesian flag with a tonnage of at least 5000 GT (five thousand Gross Tonnage) manned by Indonesian citizens..

Article 30

Further provisions on the procedure and requirements of permits of transportation on waters shall be regulated with a Government Regulation.

Part Seven

Service Business related with Transportation on Waters

Article 31

- (1) To expedite transportation on waters referred to in Article 6, business on related services is entitled to be carried out.
- (2) The business on related services referred to in sub-Article (1) may be in the form of:
 - a. Loading and unloading of goods;
 - b. Transportation handling services;
 - c. Port water transportation;
 - d. Rental of sea transportation equipment or equipment of related services;

- e. Independent tally;
- f. Container depot;
- g. Ship management;
- h. Ship broker;
- i. Ship manning agency;
- j. Ship agency; and ship repair and maintenance.

Article 32

- (1) The service-related business referred to in Article 31 sub-Article (2) shall be performed by business entities established particularly for such purpose.
- (2) Besides the particularly established business entities as meant in sub-Article (1), loading and unloading activities may be performed by national sea transportation companies but limited to loading and unloading of cargo for ships it operates.
- (3) Besides the particularly established business entities as meant in sub-Article (1), port water transportation activities may be performed by national sea transportation companies.
- (4) Tally activities which are not the independent tally referred to in Article 31 sub-Article (2) letter e may be performed by national sea transportation companies, loading and unloading companies, or transportation handling services companies limited to container cargo-doring, receiving/delivery, stuffing, and stripping activities for own interests.

Article 33

Every business entities established particularly for service-related business referred to in Article 32 sub-Article (1) must possess business permits.

Article 34

Further provisions on the procedure and requirements of permits of service-related business transportation on waters shall be regulated with a Government Regulation.

Part Eight

Tariff of Transportation and Services-Related Business

Article 35

- (1) Tariff of transportation on waters consists of tariff of passengers and tariff of goods.
- (2) Tariff of economy class passengers is stipulated by the Government.
- (3) Tariff of non-economy class passengers is stipulated by the transportation operator based on the level of services provided.
- (4) Tariff of goods is stipulated by the transportation services provider based on agreements between the transportation services users and the provider in accordance with the type, structure and category stipulated by the Government.

Article 36

Tariff of services-related business is stipulated by the provider of the related services based on agreements between the related services users and the provider in accordance with the type, structure and category stipulated by the Government.

Article 37

Further provisions on the types, structures and categories of tariff of transportation and services-related

business shall be regulated with a Government Regulation.

Part Nine

Obligation and Responsibility of Transporter

Paragraph 1

Obligation to Transport

Article 38

- (1) Water transportation companies must transport passengers and/or goods particularly transportation of post agreed upon in a transportation agreements.
- (2) The transportation agreements referred to in sub-Article (1) shall be proved by passenger tickets and cargo documents.
- (3) In certain condition, the Government is authorized to mobilize the national trade fleet.

Article 39

Further provisions on the obligation to transport shall be regulated with a Government Regulation.

Paragraph 2

Responsibility of Transporter

Article 40

- (1) Water transportation companies are responsible on the safety and security of passengers and/or goods being transported.
- (2) Water transportation companies are responsible on ship's cargo in accordance with the type and amount stated in cargo documents and/or agreed upon agreements or contract.

Article 41

- (1) The responsibilities referred to in Article 40 may be caused as consequence of the operations of ships, in the form of:
- a. death or injury of passengers being transported;
 - b. loss of or damages to goods being transported;
 - c. delay of transportation of passengers and/or goods.
 - d. third party losses
- (2) If the water transportation companies can prove that that the losses referred to in sub-Article (1) letters b, c, and d is not due to its fault, it can be relieved from its responsibility in part or in whole.
- (3) Water transportation companies must insure its responsibility as meant in sub-Article (1) and carry out basic protection insurance for general passengers in accordance with provisions of statutory regulations.

Article 42

- (1) Water transportation companies must provide special facilities and ease for the disabled, pregnant women, children below five (5) years old, sick person, and senior citizens.
- (2) The provisions of the facilities and ease referred to in sub-Article 1 (1) shall not bear any additional costs.

Article 43

Further provisions on the responsibility of transporters shall be regulated with a Government Regulation.

Paragraph 3

Transportation of Special Goods and Hazardous Goods

Article 44

The transportation of special goods and hazardous goods must be carried out in accordance with provisions of statutory regulations.

Article 45

- (1) The special goods referred to in Article 44 may be in the form of:
- a. logs;
 - b. poured goods;
 - c. rail; and
 - d. livestock.
- (2) The hazardous goods referred to in Article 44 are in the form of:
- a. liquids;
 - b. solids; and
 - c. gaseous
- (3) The hazardous goods referred to in sub-Article (2) are classified as follows:
- a. explosives;
 - b. gases being compressed, liquefied, or dissolved under pressure;
 - c. flammable liquids;
 - d. flammable solids;
 - e. oxidizing substances;
 - f. toxic and infectious substances;
 - g. radioactive materials;
 - h. corrosive substances; and
 - i. miscellaneous dangerous substances.

Article 46

The transportation of hazardous goods and special goods referred to in Article 44 must meet the following requirements:

- a. packing, piling up, and storage in ports, loading and unloading handling, and piling up and storage while on board;
- b. safety in accordance with regulations and standard, both national and international for ships specially transporting hazardous goods; and
- c. provision of certain symbols in accordance with the transported hazardous goods.

Article 47

Owners, operators, and/or agents of sea transportation companies transporting hazardous goods and special goods must submit notifications to the Harbor-Master before the ship transporting the special goods and/or hazardous goods arrives at the port.

Article 48

Port Business Entities and Port Operator Units are obliged to prepare places for the storage or piling up of hazardous goods and special goods to ensure its safety and the smoothness of traffic flow of goods in the port, and shall be responsible on the compilation of the system and procedure of handling hazardous goods and special goods in the port.

Article 49

Further provisions on the procedure transportation of special goods and hazardous goods shall be regu-

lated with a Government Regulation.

Part Ten

Multi-mode Transportation

Article 50

(1) Water transportation is a part of the multi-mode transportation performed by multi-mode transportation business entities.

(2) Activities of water transportation within the multi-mode transportation is carried out based on agreements performed between providers of water transportation services and multi-mode transportation business entities and providers of other mode services.

Article 51

(1) Multi-mode transportation shall be performed by business entities having received special permit to carry out multi-mode transportation from the Government.

(2) The business entities referred to in sub-Article (1) shall be liable from the receipt of goods until its delivery to the goods receiver.

Article 52

The performance of multi-mode transportation is executed based on one (1) document issued by the provider of multi-mode transportation services.

Article 53

- (1) The liabilities of the provider of multi-mode transportation services referred to in Article 51 sub-Article (2) cover losses of or damages to goods and delay of the delivery of goods.
- (2) The liabilities referred to in sub-Article (1) may be exempted if the provider of the multi-mode transportation services can prove that it or its agents had properly performed all actions to prevent such losses of or damages to the goods, as well as any delays of the delivery of goods.
- (3) The liabilities of the provider of multi-mode transportation services referred to in sub-Article (1) is limited in nature.

Article 54

Providers of multi-mode transportation services must insure their liabilities.

Article 55

Further provisions on multi-mode transportation shall be regulated with a Government Regulation.

Part Eleven

Empowerment of National Water transportation Industry

Article 56

The development and procurement of national water transportation fleet is executed in the context of

empowering national water transportation and to augment the national ship industry performed integrated with the support of all related sectors.

Article 57

- (1) The empowerment of national water transportation industry referred to in Article 56 is obliged to be exercised by the Government by:
- a. providing facilities on funding and taxation;
 - b. facilitating long term partnership contract between goods owners and ships owners; and
 - c. assuring the availability of oil fuel for water transportation.
- (2) The augmentation of the national ship industry referred to in Article 56 is obliged to be performed by the Government by:
- a. stipulating an integrated ship industry zone;
 - b. developing centers of design, research and development of national ship industry;
 - c. developing ship standardization and components by using local contents as much as possible and exercising transfer of technology;
 - d. developing raw material industries and ship components;
 - e. provide incentives to water transportation companies building and/or repairing ships domestically and/or procuring ships from overseas;
 - f. building ships in national ship dock industries if its procurement costs is borne on the State Income and Expenditure Budget or Regional Income and Expenditure Budget;

- g. build ships where its funding originates from overseas by using local contents as much as possible and exercising transfer of technology;
- h. maintaining and repairing ships in national ship industries where-in its costs are borne on the State Income and Expenditure Budget or Regional Income and Expenditure Budget

Article 58

Further provisions on the empowerment of national water transportation industry and national ship industry shall be regulated with a Government Regulation.

Part Twelve

Administrative Sanctions

Article 59

- (1) Any person violating the provisions referred to in Article 8 sub-Article (2), Article 9 sub-Article (8), Article 28 sub-Article (4) or sub-Article (6), or Article 33 shall be imposed of administrative sanctions in the form of:
 - a. Warning;
 - b. Administrative fine;
 - c. Freezing of permit or certificate; or
 - d. Revocation of permit or certificate.
- (2) Any person violating the provisions referred to in Article 11 sub-Article (4) or Article 13 sub-Article (6) shall

be imposed of administrative sanctions in the form of not to be provided with port-affairs services.

- (3) Further provisions on the procedure of the imposing of administrative sanctions referred to in sub-Article (1) shall be regulated with a Government Regulation.

CHAPTER VI

MORTGAGE AND PRIORITIZED SHIPPING RECEIVABLES

Part One

Mortgage

Article 60

- (1) Ships registered in List of Indonesian Ships may be used as guarantee on debts by placing mortgage on the ship.
- (2) The placement of mortgage on ship is performed by drawing up a mortgage deed by the Registration Official and Ship Transfer of Title Registrar where the ship is registered and recorded in the Ship Registration Master List.
- (3) For each mortgage deed, one (1) Deed of Gross Mortgage shall be given to the mortgage receiver.
- (4) The Deed of Gross Mortgage referred to in sub-Article (3) holds the same executorial power as a final court judgment.

- (5) In the event that the Deed of Gross Mortgage is lost, Replacement Deed of Gross Mortgage may be issued based on court stipulation.

Article 61

- (1) A ship may be charged with more than one (1) mortgage.
- (2) The rating of the respective mortgage shall be determined according to the date and sequent number of the Deed of Mortgage.

Article 62

Assignment of mortgage by the mortgage assignee to other mortgage assignee shall be executed by drawing up Assignment of Mortgage by Land Registration Officials and Recorder of Ship Change of Title at the place where the ship is registered and recorded in the Master List of Ship Registration.

Article 63

- (1) Cancellation of mortgage may be made by the Registration Official and Ship Transfer of Title Registrar on a written request by the mortgage assignee.
- (2) If the request referred to in sub-Article (3) is submitted by the mortgage assignor, such request should be enclosed with cancellation approval letter from the mortgage assignee.

Article 64

Further provisions on the procedure of mortgage placement shall be regulated with a Government Regulation.

Part Two

Prioritized Shipping Receivables

Article 65

- (1) In the event of claims on debts guaranteed with ship, the owner, the chartering party, and operator of the ship shall prioritize the payment of the Prioritized Shipping Receivable.
- (2) The Prioritized Shipping Receivable referred to in sub-Article (1) is as follows:
- a. For the payment of wages and other payments to the Captain, Ship Crew and other supporting crews of the ship with regard to their assignments on the ship, including repatriation costs and social insurance contributions payable;
 - b. To pay condolence costs on deaths or to pay medicinal treatments on body injuries, both occurring on land and on the sea connected directly with the operations of the ship;
 - c. For the payment of salvage costs on the ship;
 - d. For harbor costs and other shipping lane costs as well as scouting; and

- e. To pay losses due to physical losses or damages caused by the operations of the ship other than losses or damages on cargo, containers and passengers goods transported on the ship.
- (3) Prioritized Shipping Receivables shall not be borne on the ship to guarantee the claims referred to in sub-Article (2) letters b and e if such action arose due to :
- a. damages caused by the transportation of oil or other hazardous and toxic goods by sea; and
 - b. radioactive substances or combination of radioactive substances and toxic, explosive substances or hazardous substances from nuclear fuel, products or radioactive wastes.

Article 66

- (1) Payment of the Prioritized Shipping Receivables referred to in Article 65 shall be prioritized from the payment of security, mortgage, and registered receivables.
- (2) Ship owner, the chartering party, the management, or the operator of the ship shall prioritize the payment of costs arising other than for the payment of the Prioritized Shipping Receivables as meant in Article 65.
- (3) The costs referred to in sub-Article (2) is in the form of:
- a. costs arising due to the lifting of ship sunk or run

aground performed by the Government to ensure the safety of shipping or the protection of maritime environment; and

- b. costs for the repair of ship being the right of docks (retention right) if during an enforced sale, the ship was being on the dock existing under the laws of Indonesian.
- (4) The shipping receivable stipulated in Article 65 has a priority scale in accordance with its order, unless the claim for ship salvage costs had been demanded before the other claims, then the salvage cost becomes more prioritized than the other Prioritized Shipping Receivables.

CHAPTER VII

HARBOR AFFAIRS

Part One

Order of National Harbor Affairs

Article 67

- (1) Order of National Harbor-Affairs is realized in the context of running a reliable port having a high capability, to ensure efficiency, and having a global competitive power to support the national and regional development based on the Archipelago Concept.
- (2) Order of National Harbor-Affairs referred to in sub-Article (1) is a nation-wide harbor affairs system illustrating the planning of harbor affairs based on economic and geographic zoning, and regional comparative advantage, as well as the condition of the nature.

- (3) Order of National Harbor-Affairs referred to in sub-Article (1) contains:
- a. Roles, functions, types and hierarchy of ports;
 - b. National Port Master Plan ; and
 - c. Port locations.

Paragraph 2

Roles, Functions, Types and Hierarchy of Ports

Article 68

Ports play the role as:

- a. knots in transportation nets in accordance with its hierarchy;
- b. gate of economic activities;
- c. place for transfer of transportation modes;
- d. support of industries and/or trade activities;
- e. place for the distribution, production, and consolidation of cargo or goods; and realization of the Archipelago Concept and State sovereignty.

Article 69

Ports function as place of activities of :

- a. government; and
- b. exploitation.

Article 70

- (1) Types of ports consist of:
- a. marine ports; and
 - b. river and lake ports.

- (2) The marine port referred to in sub-Article (1) letter a have the following hierarchy:

- a. Main port;
- b. collecting port; and
- c. feeder port.

Paragraph 3

National Port Master Plan

Article 71

- (1) The National Port Master Plan referred to in Article 67 sub-Article (3) letter b is a guideline for the stipulation of location, construction, operations, port development, and the compilation of Port Master Plan.

- (2) National Port Master Plan shall be compiled by paying due attention on:

- a. National Territory Spatial Layout Plan, Province Region Spatial Layout Plan, Regency/City Area Spatial Layout Plan.
- b. Regional potentials and socio-economic development;
- c. Natural resources potentials; and
- d. Development of strategic environment, both national as well as international.

- (3) National Port Master Plan contains:

- a. national policy on ports; and
- b. plan on port location and hierarchy.

- (4) The Minister stipulates the National Port Master Plan for a term of 20 (twenty) years.
- (5) The National Port Master Plan referred to in sub-Article (4) may be reviewed once in five (5) years.
- (6) In the event of changes of strategic environment conditions due to plans stipulated with provisions of statutory regulations, the National Port Master Plan may be reviewed more than once in five (5) years.

Paragraph 4

Location of Ports

Article 72

- (1) The use of certain land and water areas as the location of ports is stipulated by the Minister in accordance with the National Port Master Plan.
- (2) The port locations referred to in sub-Article (1) shall be accompanied with Port Master Plan as well as the port Work Environment Area and Interest Environment Area.

Article 73

- (1) Every port must have a Port Master Plan.
- (2) The Port Master Plan referred to in sub-Article (1) shall be compiled by paying due attention on:
 - a. National Territory Spatial Layout Plan,

- b. Province Region Spatial Layout Plan,
- c. Regency/City Area Spatial Layout Plan.
- d. Harmony and balance with other related activities at the port location;
- e. Technical, economic and environmental feasibility; and
- f. Safety and security of ship traffic.

Article 74

- (1) The Port Master Plan referred to in Article 73 sub-Article (1) covers land area allotment plan and water area allotment plan.
- (2) The land area allotment plan referred to in sub-Article (1) shall be based on requirement criteria for:
 - a. main facilities; and
 - b. supporting facilities.
- (3) The water area allotment plan referred to in sub-Article (1) shall be based on requirement criteria for:
 - a. main facilities; and
 - b. supporting facilities.

Article 75

- (1) The Port Master Plan referred to in Article 73 sub-Article (1) shall be accompanied with port Work Environment Area and Interest Environment Area.

(2) Border of the port Work Environment Area and the Interest Environment Area referred to in sub-Article (1) shall be stipulated with geographical coordinates to ensure port activities.

(3) Port Work Environment Area consists of:

- a. Land area used for activities of main facilities and supporting facilities.
- b. Water area used for activities of shipping lanes, anchorage place, place for transfer of cargo between ships, port pool for ship docking and movement, scouting activities, place for ship repairs, and other activities in accordance with necessities.

(4) Port Interest Environment Area is the port waters beyond the waters of Port Work Environment Area used for shipping lanes to and from the port, emergency needs, long term port development, place for dead ships, shipping trials, scouting activities, construction facilities, and ship maintenance.

(5) The land and/or waters stipulated as port Work Environment Area and port Interest Environment Area referred to in sub-Article (1) are controlled by the State and regulated by Port Operators.

(6) In the stipulated Port Work Environment Area, right on the management of land and/or utilization of waters are given in accordance with provisions of statutory regulations.

Article 76

(1) Port Master Plan and Port Work Environment Area and

Port Interest Environment Area for marine ports are stipulated by:

- a. Minister for main Ports and Collecting Ports following recommendation from the Governor and Regent/mayor on the conformity with the Spatial Layout Plan of province and regency/city; and
- b. Governor or Regent/Mayor for Feeder Ports.

(2) Port Master Plan and Port Work Environment Area and Port Interest Environment Area for river and lake ports are stipulated by the Regent/Mayor.

Article 77

A certain area on land or in waters may be stipulated by the Minister as a location to function as a port, in accordance with province Spatial Layout Plan and Regency/City Spatial Layout Plan and meeting technical and environment feasibility requirements.

Article 78

Further provisions on the guidelines and procedure on the stipulation of Port Master Plan, Port Work Environment Area and Port Interest Environment Area shall be regulated with a Government Regulation.

Part Two

Performance of Activities in Ports

Paragraph 1

General

Article 79

Government and exploitation activities in ports as meant in Article 69 shall be performed integrated and coordinated.

Paragraph 2

Government Activities in Ports

Article 80

- (1) Government activities in ports referred to in Article 79 covers:
- a. regulating and developing, controlling, and supervising activities of port affairs;
 - b. *safety and security of shipping; and/or*
 - c. customs;
 - d. immigration;
 - e. quarantine.

- (2) Besides the Government activities referred to in sub-Article (1), there are other government activities where-in its existence is not permanent in nature.

- (3) The regulating and developing, controlling, and supervising activities of port affairs referred to in sub-Article (1) letter a are performed by port operators.

- (4) The function of safety and security of shipping referred to in sub-Article (1) letter b is performed by the Harbor-Master;

- (5) The function of customs, immigration, and quarantine referred to in sub-Article (1) letters c, d, and e shall be performed in accordance with statutory regulations.

Paragraph 3

Port Operators

Article 81

- (1) Port Operators referred to in Article 80 sub-Article (3) consist of:
- a. Port Authority; or
 - b. Port Operator Unit.
- (2) Port Authority referred to in sub-Article (1) letter a is formed for ports exploited commercially.
- (3) Port Operator Unit referred to in sub-Article (1) letter b is formed for ports not yet exploited commercially.
- (4) Port Operator Unit. Referred to in sub-Article (3) may be in the form of Government Port Operator Unit and Regional Government Port Operator Unit.

Article 82

- (1) The Port Authority referred to in Article 81 sub-article (1) letter a is formed by and responsible to the Minister.

- (2) The Port Operator Unit referred to in Article 81 sub-article (1) letter b is formed by and responsible to the:
- a. Minister, for Government Port Operator Units; and
 - b. Governor or Regent/ Mayor, for Regional Government Port Operator Units.
- (3) Port Authority and Port Operator Units referred to in Article 81 sub-article (1) is formed for one (1) or several ports.
- (4) Port Authority and Port Operator Units referred to in sub-Article (3) act as Government representatives to provide concessions or other forms to Port Business Entities to carry out exploitation activities in ports set forth in agreements.
- (5) Gains of concessions received by Port Authority as meant in sub-Article (4) constitute State income in accordance with provisions of statutory regulations.
- (6) In its performance, the Port Authority referred to in Article 81 sub-Article (1) letter a shall coordinate with the Regional Government.

Article 83

- (1) In order to exercise the functions of regulating and developing, controlling, and supervising activities of port affairs referred to in Article 80 sub-Article (1) letter a, Port Authority has the duties and responsibilities to:

- a. provide land and water areas for the port;
 - b. provide and maintain wave-breakers, port pool, shipping lanes, and road nets;
 - c. provide and maintain Shipping Navigation Aid Means;
 - d. ensuring the security and order at ports;
 - e. ensure and maintain preservation of the environment at ports;
 - f. compile Port Master Plan, as well as port Work Environment Area and Interest Environment Area;
 - g. Recommend the tariff to be stipulated by the Minister on the use of waters and/or land, and port facilities provided by the Government as well as port affairs services run by the Port Authority in accordance with provisions of statutory regulations; and
 - h. Ensure the smoothness of the flow of goods.
- (2) Other than the duties and responsibilities referred to in sub-Article (1), Port Authority shall perform activities on the provision of and/or port services required by service users not yet provided by Port Business Entities.

Article 84

- In order to execute the duties and responsibilities referred to in Article 83, Port Authority has the authority to:
- a. Regulate and supervise the use of port land and water areas;
 - b. Supervise the use of port Work Environment Area and Interest Environment Area;
 - c. Regulate ship traffic to and from the port by ship scouting; and
 - d. Stipulate standards of operational performance of port services.

Article 85

The Port Authority and Port Operator Unit referred to in Article 81 sub-article (1) are provided with rights on the management of land and utilization of waters in accordance with provisions of statutory regulations.

Article 86

Port Authority and Port Operator Unit apparatus are State civil servants having the capability and competence in the field of port affairs in accordance with stipulated criteria.

Article 87

The Port Operator Unit referred to in Article 81 sub-article (1) letter b has the duties and responsibilities to:

- a. provide and maintain wave-breakers, port pool, and shipping lanes;
- b. provide and maintain Shipping Navigation Aid Means;
- c. ensure the security and order at the port;
- d. ensure and maintain preservation of the environment of port;
- e. compile Port Master Plan as well as port Work Environment Area and Interest Environment Area;
- f. ensure the smoothness of the flow of goods; and
- g. provide port facilities.

Article 88

- (1) In the framework of supporting a free trade zone, a separate port may be established.
- (2) The establishment of the port referred to in sub-Article (1) shall be performed in accordance with provisions of statutory regulations in the field of free trade zone.

- (3) The performance of safety and security functions at the port referred to in sub-Article (1) shall be performed in accordance with this Law.

Article 89

Further provisions on Port Authority and Port Operator Unit shall be regulated with a Government Regulation.

Paragraph 4

Exploitation Activities in Ports

Article 90

- (1) Exploitation activities in a port consist of the provision and/or serving of port services and port-related services.
- (2) The provision and/or serving of port services referred to in sub-Article (1) consists of the provision and/or serving of services to ships, passengers, and goods.
- (3) The provision and/or serving of services to ships, passengers, and goods referred to in sub-Article (2) consist of:
 - a. provision and/or serving quay services for mooring;
 - b. provision and/or serving of filling-in fuel and clean water services;
 - c. provision and/or serving of facilities for the embarkation/disembarkation of passengers and/or vehicles;
 - d. provision and/or serving of quay services for the performance of loading and unloading of goods and containers;
 - e. provision and/or serving of warehouse services and piling-up places, loading and unloading equipment, and port equipment;

- f. provision and/or serving of container terminal services, liquid-pour, dry-pour, and Ro-ro;
- g. provision and/or serving of loading and unloading services for goods;
- h. provision and/or serving of center of distributions and consolidation of goods; and/or
- i. provision and/or serving of tug-boat services.

(4) *Activities of port-related services referred to in sub-Article (1) covers activities supporting the smoothness of operations, and to provide added value for the port.*

Article 91

- (1) *Activities on the provision and/or serving of port services referred to in Article 90 sub-article (1) in ports exploited commercially are performed by Port Business Entities in accordance with the type of business permit possessed.*
- (2) *The exploitation performed by a Port Business Entity referred to in sub-Article (1) may be carried out in more than one terminal;*
- (3) *Activities on the provision and/or serving of port services in ports not yet exploited commercially shall be performed by Port Operator Units.*
- (4) *In certain cases, terminal and other port facilities of ports exploited by Port Operator Units may be performed by a Port Business Entity based on agreement.*
- (5) *The port-related services referred to in Article 90 sub-article (1) may be performed by Indonesian individual citizens and/or business entities.*

Article 92

Activities on the provision and/or serving of port services performed by Port Business Entities referred to in Article 91 sub-article (1) are carried out based on concessions or other forms set forth in agreements.

Paragraph 5

Port Business Entity

Article 93

Port Business Entities referred to in Article 92 shall act as an operator operating the terminal and other port facilities.

Article 94

In the performance of activities on the provision and/or serving of port services referred to in Article 90 sub-article (1), the Port Business Entity has the obligations to:

- a. *provide and maintain the feasibility of port facilities;*
- b. *provide services to port service users in accordance with services stipulated by the Government;*
- c. *maintain the safety, security and order of operated port facilities;*
- d. *participate in keeping the safety, security and order in connection with transportation on waters;*
- e. *maintain the preservation of the environment;*
- f. *fulfill obligations in accordance with the concession in the agreement; and*
- g. *obey provisions of statutory regulation, both national and international.*

Article 95

Further provisions on Port Business Entities shall be regulated with a Government Regulation.

Paragraph 6
Port Construction and Operations
Article 96

- (1) Construction of sea ports shall be performed based on permit from the:
 - a. Minister, for main ports and collecting ports; and
 - b. Governor or Regent/Mayor, for feeder ports.

- (2) The construction of the sea ports referred to in sub-Article (1) must meet port technical requirements, preservation of the environment, and observing the integrity of the intra-mode and inter-mode of transportation.

Article 97

- (1) Sea ports may only be operated after its construction had been completed, had met operational requirements, and had received a permit.
- (2) Permit to operate a sea port is issued by the:
 - a. Minister, for main ports and collecting ports; and
 - b. Governor or Regent/Mayor, for feeder ports.

Article 98

- (1) Construction of river and lake ports must obtain a permit from the Regent/Mayor.
- (2) The construction of the river and lake ports referred to in sub-Article (1) shall be based on port technical requirements, preservation of the environment, and observing the integrity of the intra-mode and inter-mode of transportation.
- (3) River and lake ports may only be operated after the construction had been completed, had met operational requirements, and had received a permit.

- (4) Permit to operate a river and lake port is issued by the Regent/Mayor.

Article 99

Further provisions on permit on the construction and operations of ports shall be regulated with a Government Regulation.

Paragraph 7
Indemnification Liability
Article 100

- (1) Indonesian individual citizens and/or business entities performing activities at ports shall be responsible to indemnify any losses to port buildings and/or facilities caused by its activities.
- (2) Ship owners and/or operators are liable to indemnify any losses to port buildings and/or facilities caused by its ship.
- (3) To ensure the execution of the indemnification liability referred to in sub-Article (1), ship owners and/or operators performing activities at ports must provide a guarantee.

Article 101

- (1) Port Business Entity is liable on losses suffered by service users or other third parties for errors in the operations of port.
- (2) Port service users or third parties referred to in sub-Article (1) have the right to file indemnification claims.

Part Three.....
(To be continued)

====(D)====

S H I P P I N G

(Law of Republic of Indonesia No. 17 Year 2008 dated May 7, 2008)

[Continued from Business News No. 7691-7692 pages. 14A-32A]

Part Three

Special Terminal and Terminal for Own Interest

Article 102

- (1) To support certain activities outside of port Work Environment Area and Interest Environment Area, special terminals may be built.
- (2) To support certain activities within port Work Environment Area and Interest Environment Area, terminals for own interests may be built.

Article 103

The special terminal referred to in article 102 paragraph (1):

- a. stipulated as part of the nearest port;
- b. must possess certain Work Environment Area and Interest Environment Area; and
- c. Government agencies performing shipping safety and security, and agencies performing Government functions in shall be placed there-in according to necessities.

Article 104

- (1) The special terminal referred to in article 102 paragraph (1) may only be built and operated in the event:
 - a. The nearest port cannot accommodate basic activities; and
 - b. Based on economic and operational technicalities, will be more effective and efficient, and can ensure shipping safety and security if the special terminal is built and operated.

(2) In order to build and operate the special terminal referred to in sub-article (1), it is obliged to meet requirements on port technicalities, shipping safety and security, and preservation of the environment, with a permit from the Minister.

(3) Permit for the operation of special terminals shall be given for a maximum term of five (5) years, and extendable to the extent they meet requirements based on this Law.

Article 105

Special terminals are prohibited to be used for public interests except in emergencies with a permit from the Minister.

Article 106

Special terminal not operated anymore in accordance with the issued permit may be handed over to the Government or restored to its former condition, or recommended for a change of status to be special terminal to support other basic business or changed to be a port.

Article 107

- (1) The status of a special terminal referred to in Article 106 that is handed over to the Government may be changed to a port after meeting the following requirements:
 - a. conforming to National Port Master Plan;
 - b. feasible economically and technically operational;
 - c. to form or establish Port Business Entities;

- d. had received a concession from Port Authority;
 - e. safety, order, and security of shipping; and
 - f. preservation of the environment.
- (2) In the event a special terminal changes status to a port, then the land and/or water areas, wave-breaker facilities, port pool, shipping lanes, and Shipping Navigation Aid Means controlled and owned by the special terminal operator referred to in sub-article (1) shall be delivered to and shall be controlled by the State.

Article 108

Further provisions on special terminal and changes of its status shall be regulated with a Government Regulation.

Part Four

Tariff Stipulation

Article 109

Every service of port services shall be charged with tariff in accordance with the service rendered.

Article 110

- (1) Tariff related with the use of land and/or waters and services of ports operated by Port Authority is stipulated by the Port Authority after being consulted with the Minister.
- (2) Tariff of port services exploited by Port Business Entities is stipulated by the Port Business Entities based on the type, structure and category of tariff stipulated by the Government, and constitutes an income of the Port Business Entity.

- (3) Tariff of port services not exploited commercially by the Government shall be stipulated by a Government Regulation, and constitutes a Non-Tax State Income.
- (4) Tariff of services of ports exploited by the provincial governments and regency/city governments shall be stipulated by Regional Regulation and constitutes the regions' income.

Part Five

Ports Opened to Overseas Trade

Article 111

- (1) Port activities to support the smoothness of trade opened to overseas trade are performed by main ports.
- (2) Stipulation of the port referred to in sub-article (1) is made based on the following considerations:
 - a. growth and development of national economy;
 - b. interests of international trade;
 - c. interests of the development of national sea transportation capability;
 - d. geographical position situated on international shipping crossroads;
 - e. National Port Order;
 - f. Port facilities;
 - g. State security and sovereignty; and
 - h. Other national interests.
- (3) Certain special terminals may be used to perform overseas trade activities.
- (4) The certain special terminal referred to in sub-article (2) must meet the following requirements:
 - a. administrative aspects;
 - b. economic aspects;

- c. shipping safety and security aspects;
 - d. port facility technical aspects;
 - e. office facilities and supporting equipment for agencies holding the shipping safety and security functions, customs and excise agencies, immigration, and quarantine; and
 - f. types of special commodities.
- (5) Ports and special terminals opened to overseas trade are stipulated by the Minister.

Article 112

- (1) Any person violating the provisions referred to in Article 111 sub-Article (4) may be imposed of administrative sanctions in the form of administrative fine.
- (2) Further provisions on the procedure on the imposing of administrative sanctions and the amount of administrative fine referred to in sub-Article (1) shall be regulated with a Government Regulation.

Article 113

Further provisions on ports and special terminals opened to overseas trade shall be regulated with a Government Regulation.

Part Six

Role of the Regional Government

Article 114

Role of ports referred to in Article 68 is executed to provide benefits to the regional governments.

Article 115

- (1) In order to provide the benefits referred to in Article 114, the regional governments have the following roles, duties and authorities:

- a. to motivate the development of trade zones, industry zones, and center of other economic activities;
- b. to control the assurance of preservation of the environment at the port;
- c. participate in the assurance of safety and security of port;
- d. to provide and maintain infrastructures connecting ports with trade zones, industry zones, and center of other economic activities;
- e. to develop the community around ports and to facilitate the public within its region to participate positively for the performance of port activities
- f. to provide content information center at region level;
- g. to provide permits to construct buildings on the land side; and
- h. to provide recommendations for the stipulation of the location of port and special terminal.

- (2) In the event the regional government cannot perform, or misuse its role, duty and authority, the Government shall take over such role, duty and authority in accordance with provisions of statutory regulation.

CHAPTER VIII

SAFETY AND SECURITY OF SHIPPING

Part One

General

Article 116

- (1) Safety and security of shipping consists of safety and security of shipping on water, port and marine environment protection.

- (2) The performance of safety and security of shipping referred to in sub-article (1) is carried out by the Government.

Part Two

Safety and Security of Shipping

Article 117

- (1) Safety and security of shipping is a condition where the following requirements are fulfilled:
- a. Ship sea-worthiness; and
 - b. Navigation.
- (2) Ship sea-worthiness referred to in sub-article (1) letter a must be fulfilled by every ship according to its area of sailing, covering:
- a. ship's safety;
 - b. prevention of pollution from ships;
 - c. ship manning;
 - d. ship load line and loading;
 - e. Prosperity of crew and health of passengers;
 - f. Legal status of ship;
 - g. Management of safety and prevention of pollution from ships;
 - h. Management of ship's security.
- (3) The fulfillment of each requirement of ship sea-worthiness referred to in sub-article (1) shall be proved with certificate and ship documents.

Article 118

The navigation referred to in article 117 paragraph

- (1) letter b consists of:
- a. Shipping Navigation Aid Means;
 - b. Shipping Telecommunications;
 - c. Hydrograph and Meteorology;

- d. Lanes and crossings;
- e. Dredging and reclamation;
- f. Scouting;
- g. Handling of ships' bodies; and
- h. Salvage and underwater works.

Article 119

- (1) To ensure the safety and security of shipping referred to in article 117 paragraph (1), the Government shall perform the planning, procurement, operations, maintenance, and control of Shipping Navigation Aid Means and Shipping Telecommunications according to international provisions, and stipulate shipping lanes and scouting waters.
- (2) To ensure the safety and security of Shipping Navigation Aid Means and Shipping Telecommunications, the Government shall stipulate safety and security zones around building installations.

Part Three

Safety and Security of Port

Article 120

The construction and operations of ports must be performed by consistently observing the safety and security of ships operating in the port, loading and unloading of goods, embarkation and disembarkation of passengers, as well as safety and security of the port itself.

Article 121

Safety and security of port is a condition where the requirements on the management of safety and port facilities security system are fulfilled, covering:

- a. procedure of securing port facilities;

- b. port security means;
- c. communication system; and
- d. security personnel.

Article 122

Every operation of ship and port must fulfill requirements on safety and security as well as on marine environment protection.

Part Four

Marine Environment Protection

Article 123

Marine environment protection is a condition fulfilling the procedure and requirements on prevention and control of pollution from the following activities:

- a. port affairs;
- b. the operating of ships;
- c. transportation of waste, hazardous and toxic substance on waters;
- d. disposal of waste in waters; and
- e. scrapping of ship.

CHAPTER IX

SHIP SEA-WORTHINESS

Part One

Safety of Ship

Article 124

- (1) Every procurement, building and working-on ship including its ancillaries, and operations of ships in Indonesian waters must fulfill ship safety requirements.
- (2) The ship safety requirements referred to in sub-article (1) covers:
 - a. material;

- b. construction;
- c. building;
- d. machinery and electricity;
- e. stability;
- f. layout and ancillaries including rescue equipment and radio; and
- g. ship's electronics.

Article 125

- (1) Prior to the building and working-on ship including its ancillaries, the ship owner or ship dock must draw up calculations and its design drawing as well as data of its ancillaries.
- (2) The building or working-on ship under renovation must conform to the design drawing and data that had been legalized by the Minister.
- (3) Supervision on the building and renovation of ship is exercised by the Minister.

Article 126

- (1) Ships that are stated as having met ship safety requirements are given certificate of safety by the Minister.
- (2) The certificate of safety referred to in sub-article (1) consists of:
 - a. certificate of safety for passengers ships;
 - b. certificate of safety for cargo ships; and
 - c. certificate of ship sea-worthiness and manning for fish-catching ships.
- (3) Ship's safety is determined thru inspection and testing.
- (4) Ships which had obtained the certificate referred to in sub-article (1) shall be controlled continuously until the ship is not used any more.

- (5) The inspection and testing as well as controlling referred to in sub-article (3) and (4) must be performed by government officials provided with authority and having the competence.

Article 127

- (1) Ship certificate is not valid if:
- validity period expires;
 - certificate was not endorsed;
 - ship is out of order and stated as not meeting ship's safety requirements;
 - change of ship's name;
 - change of ship's flag;
 - ship is no more in accordance with the technical data in the ship safety certificate;
 - ship undergoes renovation causing changes of ship's construction, ship's main measurement, ship's function or type;
 - ship is sunk or lost; or scrapped.
- (2) Ship certificate shall be revoked if:
- information in the ship documents used to issue the certificate is found out to be not in accordance with the real facts;
 - ship did not meet ship safety requirements; or
 - certificate was obtained illegally.
- (3) Further provisions on procedure of certificate revocation referred to in sub-article (2) shall be regulated with a Regulation of the Minister.

Article 128

- (1) Ship Captain and/or Crew shall notify Ship Safety Investigator Official if they knew that the condition of the

ship or parts there-of are deemed not meeting ship safety requirements.

- (2) Owner, operator and Captain of ship are obliged to assist the performance of inspections and testing.

Article 129

- (1) Ships must be classified based on certain types and tonnage at the classification agencies for the purpose of ship safety requirements.
- (2) The national classification agencies or acknowledged foreign classification agencies may be appointed to perform inspections and testing on ships to fulfill ship safety requirements.
- (3) The acknowledgement and appointment of the classification agency referred to in sub-article (2) is made by the Minister.
- (4) The appointed classification agency referred to in sub-article (2) must report its activities to the Minister.

Article 130

- (1) Every ship obtaining the certificate as referred to in article 126 paragraph (1) must be maintained so that it can stay put meeting ship safety requirements.
- (2) Ship maintenance referred to in sub-article (1) shall be performed periodically and from time to time.
- (3) In certain conditions, the Minister is authorized to exempt some of the stipulated requirements by still observing ship's safety.

Article 131

- (1) According to its type, tonnage and area of sailing, ships must be equipped with navigation equipment and/or ship navigation electronics meeting requirements.

(2) According to its type, tonnage and area of sailing, ships must be equipped with radio communication sets with its ancillaries meeting requirements.

Article 132

- (1) According to its type, tonnage and area of sailing, ships must be equipped with meteorology meeting requirements.
- (2) The ship referred to in sub-article (1) is obliged to submit weather information in accordance with provisions of statutory regulation.
- (3) A sailing Captain being aware of bad weather endangering shipping safety must disseminate it to other parties and/or related Government agencies.

Article 133

Further provisions on procedure for the legalization of blueprints and the supervision of ship buildings, as well as the inspection and certification of ship safety shall be regulated with a Government Regulation.

Part Two

Prevention of Pollution from Ships

Article 134

- (1) Every ship operating in Indonesian waters must meet requirements on provisions of pollution prevention and control.
- (2) The provisions of pollution prevention and control shall be determined by inspections and testing.
- (3) A ship stated as meeting requirements on provisions of pollution prevention and control shall be given a certificate on pollution prevention and control by the Minister.

(4) Further provisions on the prevention of pollution from ships shall be regulated with a Government Regulation.

Part Three

Ship Manning

Article 135

Every ship must be manned by Crews meeting qualifications and competence requirements in accordance with national and international provisions.

Article 136

- (1) Ship Captain and Crew for ships flying Indonesian flag must be Indonesian citizens.
- (2) Exemption on the provision referred to in sub-article (1) may be permitted in accordance with provisions of statutory regulation.

Article 137

- (1) Captain of ships weighing 35 GT (thirty five Gross Tonnage) or more has a law-enforcement authority and is responsible on the safety, security and order of ship, shipping, and cargo.
- (2) Captain of ships weighing less than 35 GT (thirty five Gross Tonnage) and for traditional ships weighing less than 105 GT (one hundred and five Gross Tonnage) with simple construction sailing on limited waters are responsible on the safety, security and order of ship, shipping, and cargo.
- (3) Captains are not responsible on the validity or material truth of ship cargo documents.
- (4) Captain must reject and notify the agency having the authority if he is aware that the transported cargo is not in accordance with cargo documents.

- (5) Besides the authority referred to in sub-article (1), Captains of ships weighing 35.GT (thirty five Gross Tonnage) or more, are provided with special tasks and authority, i.e.:
- a. to record all births;
 - b. to record all deaths; and
 - c. to witness and record all wills.
- (6) Captains must meet requirements on education, training, capability, skill and health.

Article 138

- (1) A Captain should always be on board when sailing.
- (2) Before a ship sails, the Captain must ensure that his ship had met ship sea-worthiness requirements, and shall report there-of to the Harbor Master.
- (3) A Captain has the right to reject to sail his ship if he knows that the ship does not meet the requirements referred to in sub-article (2).
- (4) Ship owner or operator must provide freedom of action to the Captain to execute his obligations in accordance with provisions of statutory regulation.

Article 139

For rescue actions, a Captain has the right to deviate from the stipulated route and take other necessary actions.

Article 140

- (1) In the event a Captain of a ship weighing 35 GT (thirty five Gross Tonnage) or more being on duty on a cruising ship cannot perform his duties temporarily or henceforth, Mate-I shall replace him, and at the next visited port, the Captain shall be replaced.

- (2) If Mate-I referred to in sub-article (1) is unable to replace the Captain referred to in sub-article (1), the next highest mate in position according to certificate shall replace, and in the next visited port, the Captain shall be replaced.
- (3) In the event the replacement of the Captain referred to in sub-article (1) and (2) is because of being prevented temporarily, the replacement shall not transfer the Captain's authority and responsibility to the temporary officer in charge.
- (4) If all the mates on the ship are prevented from replacing the Captain as referred to in sub-article (1), the officer to be in charge will be appointed by the ship council.
- (5) In the event the replacing of the Captain referred to in sub-article (1) is due to permanent causes, the temporary replacing Captain has the authority and responsibility as regulated in Article 137 paragraph (1) and paragraph (3).

Article 141

- (1) Captain of a ship weighing 35 GT (thirty five Gross Tonnage) or more or Captain of a passenger ship, must maintain the ship's logbook.
- (2) Captain of a ship weighing 35 GT (thirty five Gross Tonnage) or more is obliged to report the ship logbook to a Government official having the authority and/or on the request of the party having the authority to show the ship logbook or to give its copy.
- (3) The ship logbook referred to in sub-article (1) may be used as evidence in court.

Article 142

- (1) Crew of a ship must obey orders of the Captain correctly and prudently, and are prohibited to leave the ship without the Captain's permission.
- (2) In the event the crew of a ship are aware that an order they received is not in accordance with provisions of statutory regulations, the person concerned has the right to report to a Government official having the authority.

Article 143

- (1) The Captain has the authority to impose disciplinary actions on violations committed by the ship crew who:
 - a. left the ship without the Captain's permission;
 - b. did not return to the ship on time;
 - c. did not perform duties properly;
 - d. rejected assignment orders;
 - e. behaved incorrectly; and/or
 - f. behaved improperly.
- (2) The execution of the provisions referred to in sub-article (1) shall be carried out in accordance with provisions of statutory regulation.

Article 144

- (1) When the ship is cruising, the Captain is authorized to take actions on anybody who are on board of the ship illegally.
- (2) The Captain shall take actions if the person and/or those on board of the ship shall endanger the safety of the ship and the Crew.
- (3) The action referred to in sub-article (1) shall be carried out in accordance with provisions of statutory regulation.

Article 145

Everybody is prohibited to employ anyone on board a ship in any position whatsoever without certificate and without having any competence and skill and the required sailor documents.

Article 146

Further provisions on certification, manning of ship, and sailor documents shall be regulated with a Minister Regulation.

Part Four

Ship Load-Line and Loading

Article 147

- (1) The load-line of every cruising ship should be stipulated in accordance with requirements.
- (2) The stipulation of ship load-line is stated in a Load-Line Certificate.
- (3) On every ship according to its type and weight, a Load Line Mark should be installed permanently in accordance with its area of sailing.

Article 148

- (1) Every ship according to its type and weight should be equipped with stability information to enable the Captain to determine all condition of loads in all condition of the ship.
- (2) Procedure of handling, placement, and compacting goods cargo and the arrangement of limits must fulfill ship safety requirements.

Article 149

- (1) Any container used as part of transport means must meet worthiness requirement of containers.

- (2) Procedure of handling, placement, and compacting containers and the arrangement of limits must fulfill ship safety requirements.

Article 150

Further provisions on load-line and loading shall be regulated with a Regulation of the Minister.

Part Five

Prosperity of Crew and Health of Passengers

Article 151

- (1) Every Crew has the right to receive prosperity means covering:
- a. salary;
 - b. work hours and rest hours;
 - c. assurance of departure to place of destination and return to place of origin;
 - d. compensation if ship is inoperable due to accidents;
 - e. opportunity for career development;
 - f. provision of accommodation, recreation facilities, food or drink; and
 - g. Health maintenance and treatment and work-accident insurance.
- (2) The occupational prosperity referred to in sub-article (1) must be stated in the work agreement between the Crew and owner or operator of ship in accordance with provisions of statutory regulations.

Article 152

- (1) Every ship transporting passengers must provide health facilities for passengers.
- (2) The health facilities referred to in sub-article (1) cover:
- a. medicinal treatment place;

- b. medical equipment and medicines; and
- c. medical man-power.

Article 153

Further provisions on work agreement and requirements of passengers' health facilities shall be regulated with a Government Regulation.

Part Six

Legal Status of Ship

Article 154

The legal status of ship can be determined after the following process:

- a. measurement of ship;
- b. registration of ship; and
- c. stipulation of nationality of ship.

Article 155

- (1) Before being operated, every ship must be measured by government officials provided with authority by the Minister.
- (2) The measuring of ship referred to in sub-article (1) can be performed in three (3) methods, i.e.:
- a. domestic measuring for ships less than 24 (twenty four) meters long;
 - b. international measuring for ships 24 (twenty four) meters or more in length;
 - c. special measuring for ships passing through certain canals.
- (3) Based on the measurement referred to in sub-article (1), Measurement Documents shall be issued for ships of at least 7 GT (seven Gross Tonnage).
- (4) The Measurement Documents referred to in sub-article (3) is issued by the Minister and is entitled to be delegated to an appointed official.

Article 156

- (1) On ships having been measured and issued with Measurement Documents, it is obliged to install a Brand Sign.
- (2) The Brand Sign must be installed properly on the ship and should be easily read.

Article 157

- (1) The owner, operator, or Captain of a ship should immediately report in writing to the Minister if there are any renovations on the ship causing changes to the data contained in the Measurement Document.
- (2) If there are changes of data as referred to in sub-article (1), re-measurement of the ship should be performed immediately

Article 158

- (1) Ships that had been measured and issued with Measurement Documents may be registered in Indonesia by the owner to the Registration Official and Recorder of Transfer of Title of Ship stipulated by the Minister.
- (2) Ships that may be registered in Indonesia are:
 - a. ships that weigh at least 7 GT (seven GrossTonnage);
 - b. ships owned by Indonesian citizens or business entities established based on the Laws of Indonesia and domiciled in Indonesia ; and
 - c. ships owned by Indonesian business entities in the form of joint venture where the majority of its shares are owned by Indonesian citizens.
- (3) Ship registration is made by drawing up a registration deed, and registered in the List of Indonesian Ships.

- (4) As proof that a ship had been registered, the owner shall be given a registration deed gross functioning as proof of ownership of the registered ship.
- (5) On ships that had been registered, it is obliged to install a Registration Sign.

Article 159

- (1) Registration of ships shall be performed at places stipulated by the Minister.
- (2) Ship owners are free to choose one of the ship registration places referred to in sub-article (1) to register its ship.

Article 160

- (1) A ship is prohibited to be registered if at the same time, the ship is still registered in another ship registration place.
- (2) Foreign ships going to be registered in Indonesia must be equipped with cancellation statement documents from the flag country of the ship.

Article 161

- (1) Ship gross registration deed that is damaged, lost, or destroyed may be replaced with a new gross deed as replacement.
- (2) The replacement gross deed referred to in sub-article (1) may only be issued by the Registration Official and Recorder of Transfer of Title of Ship at the place where the ship was registered based on a stipulation from a district court.

Article 162

- (1) Transfer of title on a ship must be performed by transferring the title at the place where the ship was registered previously.
- (2) The transfer of title referred to in sub-article (1) shall be performed by drawing up a transfer of title deed, and recorded in the master list of the related ship.
- (3) As proof that a transfer of title on the ship had taken place to the new owner, a gross transfer of title on the ship shall be issued.

Article 163

- (1) Ships registered in Indonesia and sailing on the seas shall be issued Indonesian Nationality Ship Proof Document by the Minister.
- (2) The Indonesian Nationality Ship Proof Document referred to in sub-article (1) is issued in the form of:
 - a. Sea Document for ships weighing 175 GT (one hundred seventy five Gross Tonnage) or more;
 - b. Large Pass for ships weighing 7 GT (seven Gross Tonnage) up to less than 175 GT (one hundred seventy five Gross Tonnage);
 - c. Small Pass for ships that weigh less than 7 GT (seven Gross Tonnage);
- (3) Ships sailing only in rivers and lakes are provided with river pass or lake pass.

Article 164

State ships may be issued the Indonesian Nationality Ship Proof Document.

Article 165

- (1) Ships of Indonesian nationality must fly Indonesian flag as sign of ship nationality.
- (2) Ships not of Indonesian nationality are prohibited to fly Indonesian flag as sign of its nationality.

Article 166

- (1) Every ship sailing in Indonesian waters must show the ship's identity clearly.
- (2) Any foreign ship entering port, for the duration in port, and going to depart from ports of Indonesia must fly Indonesian flag besides it nationality flag.

Article 167

Indonesian nationality ships are prohibited to fly other country's flag as sign of nationality.

Article 168

Further provisions on procedure for the measuring and issuance of measurement documents, procedure, requirements, and documentation of ship registration, and procedure and requirements for the issuance of Indonesian Nationality Ship Proof Documents shall be regulated with a Regulation of the Minister.

Part Seven.....

(To be continued)

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S H I P P I N G

(Law of Republic of Indonesia No. 17 Year 2008 dated May 7, 2008)
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Part Seven

Management of Safety and Prevention of Pollution from Ships

Article 169

- (1) Owner or operator of ships operating certain type and weight of ships must fulfill requirements on safety management and prevention of pollution from ships.
- (2) Ships that had fulfilled the requirements on safety management and prevention of pollution from ships referred to in sub-article (1) shall be given certificates.
- (3) The certificate of safety management and prevention of pollution from ships referred to in sub-article (2) is in the form of Document of Compliance (DOC) and Safety Management Certificate (SMC) for ships.
- (4) The certificate referred to in sub-article (3) shall be issued following an external audit by competent government officials provided with authority or institution provided with authority by the Government.
- (5) Safety Management Certificate and Prevention of Pollution from Ships is issued by an official appointed by the Minister.
- (6) Further provisions on procedure of audit and the issuance of Safety Management Certificate and Prevention of Pollution from Ships shall be regulated with a Regulation of the Minister.

Part Eight

Management of Ship's Security

Article 170

- (1) Owner or operator of ships operating certain weight of ships must fulfill requirements on the management of ship security.

- (2) Ships that had fulfilled the requirements on ship security management referred to in sub-article (1) shall be given a certificate.
- (3) The certificate of ship security management referred to in sub-article (2) is in the form of International Ship Security Certificate (ISSC).
- (4) The certificate referred to in sub-article (3) shall be issued following an external audit by competent government officials provided with authority or institution provided with authority by the Government.
- (5) Ship Security Management Certificate is issued by the official appointed by the Minister.
- (6) Further provisions on procedure of audit and the issuance of Security Management Certificate shall be regulated with a Regulation of the Minister.

Part Nine

Administrative Sanction

Article 171

- (1) Any person violating the provisions referred to in Article 125 sub-Article (1), Article 129 sub-Article (1) or sub-Article (4), Article 130 sub-Article (1), Article 132 sub-Article (1) or sub-Article (2), Article 137 sub-Article (1) or sub-Article (2), Article 138 sub-Article (1) or sub-Article (2), Article 141 sub-Article (1) or sub-Article (2), Article 152 sub-Article (1), Article 156 sub-Article (1), Article 160 sub-Article (1), Article 162 sub-Article (1), or Article 165 sub-Article (1), shall be imposed of administrative sanctions in the form of:
 - a. Warning;
 - b. Administrative fine;
 - c. Freezing of permit or certificate;

d. Revocation

- d. Revocation of permit or certificate.
 - e. Not provided with certificate; or
 - f. Not provided with Sailing Approval Documents.
- (2) Any Government official violating the provisions referred to in Article 126 sub-Article (5) shall be imposed of administrative sanctions in accordance with provisions of statutory regulation in the field of man-power.
- (3) Further provisions on procedure and the procedure of imposing the administrative sanctions referred to in sub-Article (1) and sub-Article (2) shall be regulated with a Government Regulation.

CHAPTER X
NAVIGATION

Part One

Shipping Navigation Aid Means

Article 172

- (1) The Government is responsible to keep the safety and security of shipping by operating Shipping Navigation Aid Means in accordance with technical development.
- (2) Besides to keep the safety and security of shipping as referred to in sub-article (1), Shipping Navigation Aid Means can also be used for other purposes.
- (3) The operations of Shipping Navigation Aid Means referred to in sub-article (1) must meet requirements and standards in accordance with provisions of statutory regulations.
- (4) In certain situations, the procurement of Shipping Navigation Aid Means as part of the operations referred to in sub-article (2) may be performed by business entities.
- (5) Shipping Navigation Aid Means procured by the business entities referred to in sub-article (4) shall be controlled by the Government.
- (6) The business entities referred to in sub-article (4) are obliged to:
 - a. maintain and treat the Shipping Navigation Aid Means;

- b. ensure the reliability of Shipping Navigation Aid Means with stipulated standards; and
- c. report to the Minister on the operations of Shipping Navigation Aid Means.

Article 173

The operations of Shipping Navigation Aid Means shall be executed by officers meeting requirements on health, education and skill proved by certificate.

Article 174

Any person are prohibited to damage or to take any action whatsoever likely to cause the malfunction of Shipping Navigation Aid Means as well as facilities of shipping lanes on the sea, river and lake.

Article 175

- (1) Owner and/or operator of ship are responsible on any damage of Shipping Navigation Aid Means and obstacles on the sea, river and lake caused by the operation of its ship.
- (2) The responsibility of the owner and/or operator of ship as referred to in sub-article (1) is in the form of an obligation to immediately repair or replace it so that such facilities can function properly.
- (3) The repair and replacement referred to in sub-article (2) shall be performed within a time limit of 60 (sixty) calendar days from the time the damage occurred.

Article 176

- (1) Ships sailing on Indonesian waters are charged with costs on the utilization of Shipping Navigation Aid Means constituting State Non-Tax Income.
- (2) Costs on the utilization of Shipping Navigation Aid Means shall not be imposed for ships of certain countries and for certain ships.

Article 177

Further provisions on the operations of Shipping Navigation Aid Means shall be regulated with a Government Regulation.

Part Two

Shipping Telecommunication

Article 178

- (1) The Government is responsible to keep the safety and security of shipping by operating Shipping Telecommunication in accordance with the development of information and technology.
- (2) The operations of Shipping Telecommunication referred to in sub-article (1) must meet requirements and standards in accordance with provisions of statutory regulations.
- (3) The procurement of Shipping Telecommunication as part of the operations referred to in sub-article (2) may be performed by business entities.
- (4) Shipping Telecommunication procured by the business entities referred to in sub-article (3) shall be controlled by the Government.
- (5) The business entities referred to in sub-article (4) are obliged to:
 - a. maintain and treat the Shipping Telecommunication;
 - b. ensure the reliability of Shipping Telecommunication with stipulated standards; and
 - c. report the operations of Shipping Telecommunication to the Minister.

Article 179

The operations of Shipping Telecommunication shall be executed by officers meeting requirements on health, education and skill proved by certificate.

Article 180

Every person are prohibited to damage or to take any action whatsoever likely to cause the malfunction of Shipping Telecommunication as well as facilities of shipping lanes on the sea, river and lake.

Article 181

- (1) Owners and/or operators of ships are responsible on any damage of Shipping Telecommunication and obstacles on the sea, river and lake caused by the operation of their ships.
- (2) The responsibility of the owner and/or operator of ship as referred to in sub-article (1) is in the form of an obligation to immediately repair or replace it so that such facilities can function properly.
- (3) The repair and replacement referred to in sub-article (2) shall be performed within a time limit of 60 (sixty) calendar days from the time the damage occurred.

Article 182

- (1) Ships sailing on Indonesian waters are charged with costs on the utilization of Shipping Telecommunication constituting State Non-Tax Income.
- (2) Costs on the utilization of Shipping Telecommunication shall be imposed on all ships.

Article 183

- (1) The Government must provide services on danger communications, immediate and safety communications as well as standard time signal broadcasts.
- (2) Further provisions on the services on danger communications, immediate and safety communications as well as standard time signal broadcasts referred to in sub-article (3) shall be regulated with a Government Regulation.

Article 184

Further provisions on the operations of Shipping Telecommunication shall be regulated with a Government Regulation.

Part Three

Hydrograph and Meteorology

Article 185

The Government performs hydrograph survey and mapping to up-date data of shipping manuals, sea-maps, and river and lake shipping maps.

Article 186

- (1) The Government must provide meteorology services, covering among others:
 - a. provision of information on the condition of weather and sea and its estimates;
 - b. calibration and certification of weather observation equipment on board; and
 - c. technical guidance on the observation of weather at sea to certain ship crew to support inputs of meteorology data.
- (2) Further provisions on meteorology services as meant in paragraph (1) shall be regulated with a Government Regulation.

Part Four

Lanes and Crossings

Article 187

- (1) Lanes and crossings consist of :
 - a. shipping lanes at sea; and
 - b. river and lake shipping lanes
- (2) The shipping lanes referred to in sub-article (1) shall be set forth in sea-maps and shipping manuals, and shall be announced by the authorized agencies.
- (3) Lane classification criteria are stipulated on river and lake shipping lanes.

- (4) The stipulation of river and lake shipping lane classification criteria is made by observing the recommendation and technical considerations of the Minister concerned.

Article 188

- (1) The operations of shipping lanes are performed by the Government.
- (2) Business entities may be included in some of the operations of shipping lanes.
- (3) For the operations of the shipping lanes referred to in sub-article (1), the Government must:
 - a. stipulate shipping lanes;
 - b. stipulate route system;
 - c. stipulate trafficking procedure; and
 - d. stipulate ship anchorage areas according to its purpose.

Article 189

- (1) In order to build and maintain shipping lanes and for other purposes, dredging works shall be performed by fulfilling technical requirements.
- (2) The technical requirements referred to in sub-article (1) covers:
 - a. shipping safety;
 - b. preservation of the environment;
 - c. spatial layout of waters; and
 - d. irrigation arrangements for works in rivers and lakes.

Article 190

- (1) For the purpose of safety and expedition of sailing on certain waters, the Government shall stipulate a route system covering:
 - a. diagram of sea traffic separators;
 - b. two-way routes;
 - c. suggested line of direction;

- d. deep water route;
 - e. areas to be avoided;
 - f. hinterland traffic areas; and
 - g. areas to be aware of.
- (2) The stipulation of the route system referred to in sub-article (1) shall be based on:
- a. condition of the shipping lanes; and
 - b. considerations of traffic volume.
- (3) The route system referred to in sub-article (1) should be inserted in sea-maps and shipping manuals and announced by the authorized agencies.

Article 191

Traffic procedure on water is executed based on provisions of statutory regulations.

Article 192

Every shipping lane must be equipped with Shipping Navigation Aid Means and Shipping Telecommunication.

Article 193

- (1) During cruising, Captains must obey provisions related with:
- a. traffic procedure;
 - b. shipping lanes;
 - c. route system;
 - d. area of shipping of ship traffic; and
 - e. Shipping Navigation Aid Means.
- (2) Captains sailing on certain areas of the Indonesian waters are obliged to report all information thru the nearest Shore Radio Station (SROP).

Article 194

- (1) The Government stipulates the Indonesian Archipelago Sea Lanes and procedure of its usage for crossings that are continuous, direct and fastest in nature for foreign ships passing through Indonesian waters.

- (2) The stipulation of the Indonesian Archipelago Sea Lanes referred to in sub-article (1) is made by observing:
- a. national resilience;
 - b. shipping safety;
 - c. exploration and exploitation of natural resources;
 - d. cable lines and sea-bed pipes;
 - e. conservation of natural resources and the environment;
 - f. routes usually used for international shipping ;
 - g. marine layout; and
 - h. recommendations of international organizations having the authority.
- (3) All foreign ships using the Indonesian Archipelago Sea Lanes in its cruise shall not deviate except in emergencies.
- (4) The Government controls foreign ship traffic crossing the Indonesian Archipelago Sea Lanes

Article 195

For the sake of safety shipping in Indonesian waters:

- a. the Government stipulates and announces security zones and safety zones at each activity location likely to disturb safety of shipping;
- b. Any construction, removal and/or dismantling of buildings or installation must fulfill safety requirements and must get a permit from the Government;
- c. Any building or installation referred to in letter b not used any more must be dismantled by the owner of the buildings or installation;
- d. The dismantling referred to in letter c should be performed according to prevailing provisions and must reported to the Government to be announced of; and
- e. Owners or operators going to construct buildings or installation as meant in letter c must provide a guarantee.

Article 196

Further provisions on procedure and requirements on the stipulation of lanes and crossings shall be regulated with a Government Regulation.

Part Five

Dredging and Reclamation

Article 197

- (1) For the sake of shipping safety and security, the design and works on the dredging of shipping lanes and port pools, and reclamation must receive a permit from the Government.
- (2) Works on the dredging of shipping lanes and port pools, and reclamation shall be performed by companies having the capability and competence and proved by certificates issued by the agencies having the authority in accordance with provisions of statutory regulations.
- (3) Further provisions on the design and works on the dredging of shipping lanes, port pools, reclamation and certification of work performers shall be regulated with a Government Regulation.

Part Six

Scouting

Article 198

- (1) For the sake of shipping safety and security, and the expediting of trafficking on waters and in the port, the Government stipulates certain water areas as mandatory scouting waters and extraordinary scouting waters.
- (2) Any ship sailing thru mandatory scouting waters and extraordinary scouting waters had to use scout services.
- (3) The scout operations are performed by Port Authority or Port Operator Units, and may be delegated to Port Business Entities that meet determined stipulated requirements.

(4) The scouting operation referred to in sub-article (3) shall be charged with costs.

(5) In the event the Government had not yet provided scout services in the mandatory scouting waters and extraordinary scouting waters, the management and operations of scout services may be delegated to the management of a special terminal meeting determined requirements and having received a permit from the Government..

(6) The scouting cost referred to in sub-article (4) is exempted for:

- a. Battle ships; and
- b. State ships used for governmental duties.

Article 199

- (1) Scouts are obliged to meet requirements on health, skill, education and training proved with a certificate.
- (2) The scouts referred to in sub-article (1) must perform their duties based on shipping safety and security standards.
- (3) Scouting on a ship does not reduce the authority and responsibility of the Captain.

Article 200

Management of special terminals or Port Business Entities managing and operating scouting services, are obliged to pay a certain percentage of their income from scouting services to the Government as Non-Tax State Revenue.

Article 201

Further provisions on the stipulation of scouting waters, requirements and qualification of scouts, and the operations of scouting shall be regulated with a Minister Regulation.

Part Seven
Ship's Body
Article 202

- (1) Ship owners and/or Captains are obliged to report its ship's body to the agencies having the authority.
- (2) Ship's bodies referred to in sub-article (1) where its positions disturb shipping safety, shall be provided with Shipping Navigation Aid Means as marks and shall be announced by agencies having the authority.

Article 203

- (1) The ship owner is obliged to remove the ship's body and/or its contents disturbing shipping safety and security no later than 180 (one hundred eighty) calendar days from the date the ship sunk.
- (2) The Government shall lift, remove, or destroy the ship's body and/or its contents in whole or in part on the expense of the owner if in the time limit stipulated by the Government, the owner did not carry out his responsibility and obligation referred to in sub-article (1).
- (3) A ship owner neglecting to carry out his obligations in the time limit stipulated by the Government referred to in sub-article (1) causing shipping accidents, must indemnify the party encountering such accident.
- (4) The Government shall transport and control the ship's body and/or its contents whose owner was not known in the stipulated time limit.
- (5) To assure the performance of the obligation referred to in sub-articles (1) and (2), ship owners must insure their ships.
- (6) Further provisions on the procedure and requirements of removing ship's body and/or its contents shall be regulated with a Minister Regulation.

Part Eight
Salvage and Under-water Works
Article 204

- (1) Salvage activities are made on ship's body and/or its contents encountering an accident or sunk.
- (2) Any salvage activity and under-water work must have a permit and must meet technical requirements on shipping safety and security from the Minister.

Article 205

Further provisions on the procedure and requirements of salvage and under-water works shall be regulated with a Minister Regulation.

Part Nine
Administrative Sanctions
Article 206

- (1) Any person violating the provisions referred to in Article 172 sub-Article (6), Article 178 sub-Article (5), Article 193 sub-Article (2), Article 198 sub-Article (2), or Article 200 will be imposed of administrative sanctions in the form of:
 - a. Warning;
 - b. Freezing of permit or certificate;
 - c. Revocation of permit or certificate.
- (2) Further provisions on the mechanism and procedure of imposing the administrative sanctions referred to in sub-Article (1) and sub-Article (2) shall be regulated with a Government Regulation.

CHAPTER XI
HARBOR-MASTER

Part One

Function, Duties and Authority of Harbor-master

Article 207

- (1) Harbor-masters perform functions of shipping safety and security covering the performance, supervision and law enforcement in the field of water transportation, port affairs and marine environment protection.
- (2) Other than performing the functions referred to in sub-article (1), Harbor-masters shall assist the performance of Search and Rescue (SAR) in ports in accordance with provisions of prevailing statutory regulations.
- (3) Harbor-masters are commissioned by the Minister after meeting requirements on competence in the field of shipping safety and security and port affairs.

Article 208

- (1) In the performance of shipping safety and security functions as meant in Article 207 sub-article (1), the Harbor-master has the following duties:
 - a. supervising the sea-worthiness of ship, safety and security and order in the port;
 - b. supervising the orderliness of ship traffic in port waters and shipping lanes;
 - c. supervising transfer of cargo activities in port waters;
 - d. supervising salvage activities and under-water works;
 - e. supervising tugging;
 - f. supervising scouting;
 - g. supervising loading and unloading of hazardous goods and hazardous and toxic substance wastes;
 - h. supervising re-fueling;
 - i. supervising the orderliness of embarkation and disembarkation of passengers;
 - j. supervising dredging and reclamations;

- k. supervising activities of construction of port facilities;
 - l. performing aid on search and rescue;
 - m. leading the tackling of pollution and fire fighting at the port; and
 - n. supervising the performance of marine environment protection.
- (2) In the performance of law enforcement in the field of safety and security referred to in Article 207 sub-article (1), the Harbor-master performs duty as an Investigator Official of Government Civil Servants in accordance with provisions of prevailing statutory regulations.

Article 209

In the performance of the functions and duties referred to in Article 207 and Article 208, the Harbor-master has the authority to:

- a. coordinate all governmental activities at the port;
- b. check and keep ship letters, documents, and news;
- c. issue approval on ship activities at the port;
- d. perform checks on ships;
- e. issue Shipping Approval Letter;
- f. check ship accidents;
- g. detain a ship on a court's order; and
- h. perform certification of ship crews.

Article 210

- (1) In order to perform the shipping safety and security functions referred to in Article 207 sub-article (1), a Harbor-master Institution shall be formed.
- (2) Further provisions on the establishment of the Harbor-master Institution referred to in sub-article (1) shall be regulated with a Government Regulation.

Part Two

Coordination of Government Activities in a Port

Article 211

- (1) Harbor-masters hold top authority in the performance of coordination of customs, immigration, quarantine, and other governmental activities.
- (2) The coordination exercised by the Harbor-master as referred to in sub-article (1) is in the context of supervision and law enforcement in the field of shipping safety and security.

Article 212

- (1) In the performance of security and order in the port according to provisions of international conventions, the Harbor-master acts as Port Security Committee.
- (2) In the performance of the function referred to in sub-article (1), the Harbor-master is authorized to request for assistance from the Police of the Republic of Indonesia and/or Indonesian National Army.
- (3) The security and order assistance in a port referred to in sub-article (1) is under the coordination within the authority of the Harbor-master.
- (4) Further provisions on the procedure of the performance of security and order and request for assistance in a port referred to in sub-articles (1) and (2) shall be regulated with a Government Regulation.

Part Three

Checking and Keeping Ship Letters,
Documents and News

Article 213

- (1) Ship owners, Operators, or Captains are obliged to notify the arrival of its ship at a port to the Harbor-master.
- (2) Any ship entering a port must submit the ship's letters, documents and news for checking to the Harbor-master promptly on the ships arrival at a port.

- (3) After making the checks referred to in sub-article (2), the ship's letters, documents and news shall be kept by the Harbor-master to be returned simultaneously with the issuance of the Shipping Approval Letter.
- (4) Further provisions on the procedure of ship's arrival notification, checks, submission and storage of ship's letters, documents and news referred to in sub-articles (1), (2), and (3) shall be regulated with a Minister Regulation.

Article 214

Captains must fill-in, sign and submit ship's news to the Harbor-master according to the form stipulated by the Minister.

Article 215

Any ship entering a port, when it is in the port, and at the time of departure from the port are obliged to obey regulations and execute all directives and instructions of the Harbor-master for the sake of expediting ship traffic and activities in the port.

Part Four

Approval on Ship's Activities in a Port

Article 216

- (1) Ships undergoing repairs, sailing trials, transfer of load activities in port pool, tugging, and loading and unloading of hazardous goods must receive an approval from the Harbor-master.
- (2) Salvage, under-water works, re-fueling, dredging, reclamation, and port construction activities must be reported to the Harbor-master.
- (3) Further provisions on the procedure to receive the approval and on reporting referred to in sub-article (1) and sub-article (2) shall be regulated with a Minister Regulation.

Part Five
Ship Checking
Article 217

The Harbor-master has the authority to execute checks on the sea-worthiness and security of ships at port.

Article 218

- (1) In certain cases, a Harbor-master has the authority to execute checks on the sea-worthiness and security of ships flying Indonesian flag in the port.
- (2) Harbor-masters have the authority to execute checks on the sea-worthiness and security of foreign ships in the port in accordance with provisions of prevailing statutory regulations.
- (3) Further provisions on the procedure of checking ships as referred to in sub-articles (1) and (2) shall be regulated with a Minister Regulation.

Part Six
Shipping Approval Letter
Article 219

- (1) Any ship that sails must have a Shipping Approval Letter issued by the Harbor-master.
- (2) Shipping Approval Letter is not valid if in a period of 24 (twenty four) hours after the issuance of the Shipping Approval Letter, the ship did not depart from the port.
- (3) The Shipping Approval Letter referred to in sub-article (1) shall not be issued to a ship or shall be revoked if the provisions referred to in Article 44, Article 117 sub-article (2), Article 130 sub-article (1), Article 134 sub-article (1), Article 135, Article 149 sub-article (2), Article 169 sub-article (1), Article 213 sub-article (2), or Article 215 are violated.
- (4) The Harbor-master is authorized to detain the departure of a ship to sail if it did not meet the requirements on sea-worthiness or due to weather consideration.

- (5) Further provisions on the procedure of the issuance of Shipping Approval Letter referred to in sub-article (1) shall be regulated with a Minister Regulation.

Part Seven
Preliminary Check of Ship Accident
Article 220

- (1) Harbor-masters shall perform checks on every ship accident to find information and/or preliminary evidence of the ship accident.
- (2) The ship accident check referred to in sub-article (1) is a preliminary check

Article 221

- (1) Preliminary check of ship accident flying Indonesian flag in Indonesian territorial waters shall be performed by a Harbor-master or an appointed government official.
- (2) Preliminary check of ship accident flying Indonesian flag beyond Indonesian territorial waters shall be performed by a Harbor-master or an appointed government official after receiving a report on ship accident from the Representative of the Republic of Indonesia and/or the authorized government official of the local country.
- (3) Result of the preliminary check referred to in Article 220 may be forwarded to a Shipping Court for advanced checks.

Part Eight
Ship Detainment
Article 222

- (1) The Harbor-master may arrest a ship in the port only by a court's order in writing.
- (2) The detainment of ship due to the written court's order referred to in sub-article (1) is authorized to be performed by reasons of:

- a. The related ship is connected with a criminal case;
or
- b. The related ship is connected with a civil case;

Article 223

- (1) Ship ~~detainment order by a court~~ in a civil case in the form of shipping claim shall be performed without any claim process.
- (2) Further provisions on ship detainment procedure in port as meant in sub-article (1) shall be regulated with a Minister Regulation.

Part Nine

Certification of Ship Crew

Article 224

- (1) Any person working on a ship in any position whatsoever must have a competence, sailor documents, and certified by a Harbor-master.
- (2) The certification of Ship crew referred to in sub-article (1) shall be made in the following phases:
 - a. signing of marine work agreement by the sailor and the marine transport companies acknowledged by the Harbor-master; and
 - b. based on the signing of the marine work agreement, the Captain set out the name and position of the ship crew according to his competence in a certification book legalized by the Harbor-master.

Part Ten

Administrative Sanctions

Article 225

- (1) Any person violating the provisions referred to in Article 213 sub-Article (1) or sub-Article (2), Article 214 or Article 215 shall be imposed of administrative sanctions in the form of:
 - a. Warning;
 - b. Freezing of permit or certificate; or
 - c. Revocation of permit.

- (2) Further provisions on the mechanism and procedure of imposing administrative sanctions referred to in sub-Article (1) shall be regulated with a Government Regulation.

CHAPTER XII

MARINE ENVIRONMENT PROTECTION

Part One

Performers of Marine Environment Protection

Article 226

- (1) The operations of marine environment protection is exercised by the Government
- (2) The operations of marine environment protection referred to in sub-article (1) is exercised thru:
 - a. prevention and tackling of pollution from ships' operations; and
 - b. prevention and tackling of pollution from port activities.
- (3) Besides the prevention and tackling referred to in sub-article (2), marine environment protection shall also be performed on:
 - a. waste disposal in waters; and
 - b. scrapping of ships.

Part Two

Prevention and Tackling of Pollution

from the Operations of Ships

Article 227

Every Ship Crew is obliged to prevent and tackle the occurrence of pollution of the environment originating from the ship.

Article 228

- (1) Ships of certain types and measurement that are operated must be equipped with equipment and substances that had been legalized by the Government for the tackling of oil pollution from the ship.

(2) Ships

- (2) Ships of certain types and measurement being operated must be equipped with a pattern that had been legalized by the Government for the tackling of oil pollution from the ship.

Article 229

- (1) Every ship is prohibited to dispose of waste, ballast water, dirt, garbage and hazardous and toxic chemical substances to the waters.
- (2) In the event the disposal range, disposal volume and disposal quality had been in accordance with requirements stipulated in accordance with provisions of prevailing statutory regulations, the provision of sub-article (1) may be exempted.
- (3) Every ship is prohibited to emit exhaust gas exceeding the threshold according to provisions of prevailing statutory regulations.

Article 230

- (1) Every Captain or responsible party of other activity units on waters shall be responsible to tackle pollution originating from his ship and/or activities.
- (2) Every Captain or responsible party of other activity units on waters must immediately report to the nearest Harbor-master and/or the nearest other government elements on the event of pollution of waters caused by his ship or his activities, if he knows the pollution from his ship and/or other activities on the waters.
- (3) The other Government elements who received the information referred to in sub-article (2) should forward the report on the occurrence of the water pollution to the nearest Harbor-master or to authorized agencies.
- (4) The nearest Harbor-master shall forward the report referred to in sub-article (3) to authorized agencies for further actions.

Article 231

- (1) The owner or operator of a ship shall be responsible on pollution originating from his ship.
- (2) In order to fulfill the responsibility referred to in sub-article (1), the owner or operator of a ship must insure his obligation.

Article 232

Further provisions on prevention and tackling pollution due to the operations of ships shall be regulated with a Government Regulation.

Article 233

- (1) Transportation of wastes of hazardous and toxic substances by a ship must observe the specification of ships entitled to transport wastes.
- (2) Specification of the ship referred to in sub-article (1) and procedure for the transportation of wastes of hazardous and toxic substances must fulfill requirements stipulated by the Minister.
- (3) Ships transporting wastes of hazardous and toxic substances must have operational standards and emergency response procedure in accordance with provisions of prevailing statutory regulations.

Part Three

Prevention and Tackling of Pollution from Port Activities

Article 234

The operations of ports must fulfill requirements to prevent the existence of pollution originating from port activities.

Article 235

- (1) Every port must meet the requirements of pollution tackling equipment according to the volume and type of activity.

- (2) Every port must fulfill requirements of pollution tackling substance according to the volume and type of activity.
- (3) Port Authorities must possess emergency response standards and procedure in accordance with provisions of prevailing statutory regulations.

Article 236

Port Authorities, Port Operator Units, Port Business Entities, and special terminals management are obliged to tackle pollution caused by port operations.

Article 237

- (1) To accommodate wastes from ships in a port, the Port Authority, Port Operator Unit, Port Business Entities, and special terminals management are obliged to and are responsible to prepare waste accommodation facilities.
- (2) Waste management shall be executed in accordance with provisions of prevailing statutory regulations.
- (3) Waste transportation to collecting, processing, and final destruction places shall be executed based on provisions stipulated by the Minister responsible in the field of the living environment.

Article 238

Further provisions on prevention and tackling of pollution at ports shall be regulated with a Government Regulation.

Part Four

Waste Disposal in Waters

Article 239

- (1) Waste disposal in waters may only be performed at certain locations stipulated by the Minister and must meet certain requirements.

- (2) The waste disposal referred to in sub-article (1) must be reported to the institution having the duty and functions in the field of sea and coast guard.

Article 240

Further provisions on waste disposal in waters shall be regulated with a Government Regulation.

Part Five

Ship Scrapping

Article 241

- (1) Ship scrapping must fulfill the requirements on marine environment protection.
- (2) Location of the scrapping of ships referred to in sub-article (1) is determined by the Minister.

Article 242

Requirements of marine environment protection for the scrapping of ships referred to in Article 241 shall be regulated with a Minister Regulation.

Part Six

Administrative Sanctions

Article 243

- (1) Any person violating the provisions referred to in Article 230 sub-Article (2), Article 233 sub-Article (3), Article 234, Article 235, or Article 239 sub-Article (2), shall be imposed of administrative sanctions in the form of:
- a. Warning;
 - b. Administrative fine;
 - c. Freezing of permit; or
 - d. Revocation of permit.
- (2) Further provisions on the mechanism and procedure of imposing the administrative sanction referred to in sub-Article (1) shall be regulated with a Government Regulation.

CHAPTER XIII

SHIP ACCIDENT AND SEARCH AND RESCUE

Part One

Danger to Ships

Article 244

- (1) Danger to ships and/or human is an event endangering the safety of ship and/or human life.
- (2) Any person who is aware of the event referred to in sub-article (1) must immediately take preventive, search and rescue actions, and report the event to the nearest authorized official or to other parties.
- (3) Captains are obliged to take preventive actions and to disseminate the news to other parties if he knew that his ship, other ships or any person are in danger.
- (4) Captains are obliged to report the danger referred to in sub-article (3) to:
 - a. the nearest port Harbor-master if the danger exists in Indonesian territorial waters; or
 - b. Representative Official of the Republic of Indonesia and government official of the local country if the danger exists beyond Indonesian territorial waters.

Part Two

Ship Accident

Article 245

A ship accident is an event endangering the safety of ship and/or human life in the form of:

- a. Ship is sunk;
- b. Ship is on fire;
- c. Ship collides; and
- d. Ship is stranded.

Article 246

In the event of the ship accident referred to in Article 245, any person on board knowing about the accident, within the limits of his capability should provide aid and report the accident to the Captain and/or Ship Crew.

Article 247

Captains knowing about an accident on his ship or other ships are obliged to report it to:

- a. the nearest port Harbor-master if the danger exists in Indonesian territorial waters; or
- b. Representative Official of the Republic of Indonesia and government official of the local country if the danger exists beyond Indonesian territorial waters.

Article 248

Captains knowing about an accident on his ship or other ships are obliged to report to:

- a. the nearest port Harbor-master if the danger exists in Indonesian territorial waters; or
- b. Representative Official of the Republic of Indonesia and government official of the local country if the danger exists beyond Indonesian territorial waters.

Article 249

The ship accident referred to in Article 245 shall be the responsibility of the Captain unless it can be proved otherwise.

Part Three

Shipping Court

Article 250

- (1) Shipping Court is formed by and is responsible to the Minister.
- (2) Shipping Court has an organization structure and procedure stipulated with a Minister Regulation.

Article 251

The Shipping Court referred to in sub-article (1) has the functions to perform advanced checks on ship accidents, and to enforce profession ethic codes and competence of a Captain and/or ship officers after preliminary checks performed by a Harbor-master.

Article 252

The Shipping Court has the authority to check collisions between merchant ships and merchant ships, merchant ships and state ships, and merchant ships with battle ships.

Article 253

- (1) In the performance of the advanced checks on ship accidents referred to in Article 251, the Shipping Court has the duties to:
- a. scrutinize causes of a ship accident and to determine whether there are any fault or negligence in the implementation of sailor profession standards committed by the Captain and/or ship officers leading to the occurrence of the ship accident; and
 - b. recommend to the Minister on the imposing of administrative sanction to the fault or negligence of the Captain and/or ship officers
- (2) The administrative sanctions referred to in sub-article (1) letter b is in the form of:
- a. Warning; or
 - b. Temporary revocation of Sailor Profession Certificate.

Article 254

- (1) In the advanced checks, the Shipping Court is authorized to request the attendance of government officials in the field of shipping safety and security and other related parties.
- (2) In the advanced checks, the owner or operator of the ship should make the Captain and/or Ship Crew to be present.
- (3) The owner or operator of a ship who violates the provisions referred to in sub-article (2) shall be imposed of sanctions in the form of:
- a. Warning;
 - b. Freezing of permit; or
 - c. Revocation of permit.

Article 255

Further provisions on the functions, authority, and duties of the Shipping Court, and the mechanism and procedure of imposing the administrative sanction shall be regulated with a Government Regulation.

Part Four

Investigation of Ship Accident

Article 256

- (1) Investigation of ship accident is executed by the National Committee on Transportation Safety to find facts in order to prevent the occurrence of ship accident with similar causes.
- (2) The investigation referred to in sub-article (1) shall be performed on any ship accident.
- (3) The investigation performed by the National Committee on Transportation Safety referred to in sub-article (1) is not to determine the fault or negligence causing the ship accident.

Article 257

Further provisions on the duties of the National Committee on Transportation Safety and procedure on checking and investigation of ship accidents shall be regulated with a Government Regulation.

Part Five

Search and Rescue

Article 258

- (1) The Government is responsible to perform search and rescue of ship accidents and/or people encountering disasters in Indonesian waters.
- (2) Ships or aircrafts close to or passing by an accident location are obliged to help search and rescue efforts on any ship and/or person encountering disasters in Indonesian waters.
- (3) Any person having or operating a ship encountering a disaster shall be responsible to perform search and rescue for its ship's accident.

Article 259

Responsibility on the performance of search and rescue by the Government as meant in Article 258 sub-article (1) shall be coordinated and executed by the institution responsible in the field of search and rescue.

Article 260

Further provisions on search and rescue shall be regulated with a Government Regulation.

CHAPTER XIV
HUMAN RESOURCES

Article 261

- (1) The operations and development of human resources in the field of shipping are performed with the purpose of supplying human resources that are professional, competent, disciplined, and responsible as well as meeting national and international standards.
- (2) The operations and development of the human resources referred to in sub-article (1) cover planning, research and development, education and training, placement, development of job markets, and extension of business opportunities.
- (3) The operations and development of the human resources referred to in sub-article (1) is performed on government apparatus and the public.
- (4) The human resources in the field of shipping referred to in sub-article (1) covers:
 - a. human resources in the field of water transportation;
 - b. human resources in the field of port affairs;
 - c. human resources in the field of shipping safety and security; and
 - d. human resources in the field of marine environment protection.

Article 262

- (1) Education and training in the field of shipping referred to in Article 261 sub-article (2) is performed by the Government, the regional governments, or the public thru formal and informal tracks.
- (2) The formal education track referred to in sub-article (1) shall be performed in middle and high education levels in accordance with provisions of prevailing statutory regulations.
- (3) The informal education track is training institutions in the form of education and training workshops in the field of shipping.

Article 263

- (1) Education and training in the field of shipping referred to in Article 261 sub-article (2) is the responsibility of the Government; where-in its guidance is exercised by the Minister and the minister responsible in the field of national education in accordance with his authority.
- (2) The Government and the regional governments shall direct, guide, supervise and assist the performance of education and training in the field of shipping in accordance with provisions of prevailing statutory regulations.
- (3) The public has the obligations to provide support resources for the conduct of shipping education and training.

Article 264

- (1) The education and training of human resources in the field of shipping referred to in Article 261 sub-article (2) shall be compiled in an education and training model stipulated by the Minister.
- (2) The education and training model referred to in sub-article (1) should contain at least:
 - a. Type and level of education and training;
 - b. Participants of education and training;
 - c. Rights and obligations of education and training;
 - d. Curriculum and method of education and training;
 - e. Instructors and trainers;
 - f. Means and infrastructures of education and training;
 - g. Standardization of the performance of education and training;
 - h. Costs of education and training; and
 - i. Supervision and control on education and training;

Article 265

The Government and the regional governments are obliged to provide services and facilities, and shall ensure the performance of a qualified education and training in the field of shipping for all citizens without discrimination.

Article 266

- (1) Water transportation companies are obliged to provide facilities for shipping practices on ships to improve the quality of human resources in the field of water transportation.
- (2) Water transportation companies, Port Business Entities, and related agencies are obliged to provide facilities for practices in ports or in its activity locations to improve the quality of human resources in the field of water transportation
- (3) Water transportation companies, organizations, and business entities receiving benefits from shipping profession services are obliged to provide contributions to support the availability of qualified sailors.
- (4) The contribution referred to in sub-article (3) is in the form of:
 - a. granting scholarships;
 - b. building education institutions according to international standards;
 - c. cooperating with existing education institutions; and/or
 - d. procuring simulator sets, books, and up-to-date maritime bulletins.

Article 267

Any person violating the provisions referred to in Article 266 sub-Article (1) or sub Article (3) shall be imposed of administrative sanctions in the form of:

- a. Warning;
- b. Administrative fine;
- c. Freezing of permit; or
- d. Revocation of permit.

Article 268

Further provisions on the operations and development of human resources, its procedure, and the procedure of imposing administrative sanctions, and the amount of administrative fine shall be regulated with a Government Regulation.

CHAPTER XV

SHIPPING INFORMATION SYSTEM

Article 269

- (1) Shipping information system covers the collection, processing, analysis, storage, presenting, and dissemination of shipping data and information to:
 - a. Support shipping operations;
 - b. Improve services to the community or public; and
 - c. Support the formulation of policies in the field of shipping.
- (2) The shipping information system referred to in sub-article (1) is operated by the Government and the regional governments.
- (3) The regional governments operate the shipping information system in accordance with its authority based on guidelines and standards stipulated by the Government.

Article 270

The Shipping Information System referred to in Article 269 covers:

- a. Water transportation information system covering at least:
 - i. water transportation business and activities;
 - ii. armada and space capacity of national ships;
 - iii. ship's load and segment of national ship load;
 - iv. business and activities related with water transportation; and route of water transportation.
- b. Port information system covering at least:
 - i. Depth of lanes and port pool;
 - ii. Capacity and condition of port facilities;
 - iii. Flow of containers, goods and passengers in port;
 - iv. Flow of ship traffic in port;
 - v. Performance of port;
 - vi. Terminal operator in port;
 - vii. Port services tariff; and
 - viii. Port Master Plan and/or port development.

- c. Shipping safety and security information system covering at least:
 - i. Condition of wind, current, wave and tide;
 - ii. Capacity of Shipping Navigational Aid Means, Shipping Telecommunications, and lanes and crossings;
 - iii. State ships in the field of shipping safety and security;
 - iv. Human resources in the field of seamanship;
 - v. List of ships flying the Indonesian flag;
 - vi. Ship bodies in Indonesian waters;
 - vii. Ship accidents; and
 - viii. Ship traffic in the waters.
- d. Marine environment protection information system covering at least:
 - i. Existence of underwater constructions (sea cables and sea pipes);
 - ii. waste disposal locations; and
 - iii. ship-scraping locations.
- e. information system on human resources and participation of the public in the field of shipping covering at least:
 - i. number and competence of human resources in the field of shipping; and
 - ii. policies issued by the Government in the field of shipping.

Article 271

The performance of Shipping Information System is carried out by building and developing an effective, efficient and integrated information net involving related parties thru the utilization of information and telecommunication technology.

Article 272

- (1) Any person performing activities in the field of shipping are obliged to submit data and information of his activities to the Government and regional governments.

- (2) The Government and regional governments shall perform up-dating of data and information periodically to get data and information that are in accordance with requirements, accurate, up-to-date, and accountable.
- (3) Shipping data and information shall be documented and published, and can be accessed by the public in need thru the utilization of information and telecommunication technology.
- (4) Management of Shipping Information System by the Government and regional governments may be performed thru cooperation with other parties.
- (5) Further provisions on the procedure of the submission and management of Shipping Information System shall be regulated with a Regulation of the Minister.

Article 273

- (1) Any person violating the provisions referred to in Article 272 sub-Article (1) may be imposed of administrative sanctions in the form of:
 - a. Warning;
 - b. Freezing of permit;
 - c. Revocation of permit.
- (2) Further provisions on the mechanism and procedure of imposing the administrative sanctions referred to in sub-Article (1) shall be regulated with a Government Regulation.

CHAPTER XVI

PARTICIPATION OF THE PUBLIC

Article 274

- (1) In the context of improving the performance of shipping at an optimum, the public has an equal and the widest chance to participate in shipping activities.
- (2) The participation of the public referred to in sub-article (1) may be in the form of:
 - a. monitoring and maintaining the orderliness of the operations of shipping activities;

- b. providing inputs to the Government for the perfection of regulations, guidelines, and technology standards in the field of shipping
 - c. providing inputs to the Government and regional governments in the framework of guidance, operations, and supervision on shipping.
 - d. submitting opinions and considerations to the authorities on operation activities of shipping causing essential impacts on the environment; and/or
 - e. filing claims in representation against shipping activities disturbing, inflicting losses to and/or endangering the public interest.
- (3) The Government shall consider and shall take follow-up steps on the inputs, opinions and considerations submitted by the public referred to in sub-article (2) letters b, c and d.
- (4) In the performance of the participation referred to in sub-article (2), the public shall also be responsible to maintain the orderliness, safety and security of shipping.

Article 275

- (1) The participation of the public referred to in Article 274 sub-article (2) may be performed individually, in groups, profession organizations, business entities or other social organizations in accordance with the principles of transparency and partnership.
- (2) Further provisions on the participation of the public referred to in sub-article (2) shall be regulated with a Regulation of the Minister.

CHAPTER XVII SEA AND COAST GUARD

Article 276

- (1) In order to ensure the performance of safety and security at sea, functions of securing and enforcing statutory regulations on the sea and coasts had to be performed.

- (2) The execution of the functions referred to in sub-article (1) is performed by the Sea and Coast Guard.
- (3) The Sea and Coast Guard referred to in sub-article (2) shall be formed by and responsible to the President, whereas technology operational matters shall be performed by the Minister.

Article 277

- (1) In the performance of the functions meant in Article 276 sub-article (1), the Sea and Coast Guard shall perform the following duties:
- a. control shipping safety and security;
 - b. observe, prevent and tackle pollution at sea;
 - c. control and putting in order ship activities and traffic;
 - d. observe and putting in order activities on salvage, under-water works, exploration and exploitation of sea resources;
 - e. secure Shipping Navigational Aid Means; and
 - f. support the performance of search and rescue of life at sea.
- (2) In the performance of the functions meant in Article 276 sub-article (1), the Sea and Coast Guard shall perform coordination to:
- a. formulate and stipulate general policies on law enforcement at sea;
 - b. compile integrated policies and operation procedure standards of law enforcement at sea;
 - c. guard, control, prevent and take actions on law violations, to secure shipping and activities of the public and the Government within Indonesia territorial waters; and
 - d. provide integrated administration technology support in the field of law enforcement at sea.

Article 278

- (1) In the performance of the duties referred to in Article 277, the Sea and Coast Guard has the authority to:
 - a. perform sea patrols;
 - b. make hot pursuits;
 - c. stop and check ships at sea; and
 - d. perform investigations.
- (2) In the performance of the authority referred to in sub-article (1) letter d, the Sea and Coast Guard exercised the duty as Government Civil Servant Investigator Official in accordance with provisions of prevailing statutory regulations.
- (3) Further provisions on the authority of Sea and Coast Guard shall be regulated with a Government Regulation.

Article 279

- (1) In the framework of performing its duties, the Sea and Coast Guard referred to in Article 277 shall be supported with infrastructures in the form of armada bases of the Sea and Coast Guard located all over Indonesia, and are authorized to use ships and aircrafts having the status as state ship or state aircraft.
- (2) The Sea and Coast Guard must possess qualification and competence in accordance with provisions of statutory regulations.
- (3) The execution of the guarding and law enforcing meant in sub-article (1), it is mandatory to use and show clear identities.
- (4) Further provisions on Sea and Coast Guard identities shall be regulated with a Government Regulation.

Article 280

Officers in the field of guarding and law enforcing on shipping who did not use and show the clear identities referred to in Article 279 sub-article (3) shall be imposed of administrative sanctions in accordance with provisions of statutory regulations in the field of personnel.

Article 281

Further provisions on the on the establishment as well as of the organization and work mechanism of Sea and Coast Guard shall be regulated with a Government Regulation.

CHAPTER XVIII

INVESTIGATION

Article 282

- (1) Other than the Indonesian police investigators and other investigators, certain civil servant officials within the agencies having the scope of duty and responsibility in the field of shipping may be provided with special authority as the investigators meant in this Law.
- (2) In the performance of its duty, the civil servant officials referred to in sub-article (1) shall be under the coordination and supervision of the Indonesian police investigator officials.

Article 283

- (1) The investigators referred to in Article 282 are authorized to perform investigations on criminal acts in the field of shipping.
- (2) The civil servant investigator referred to in sub-article (1) has the following authorities:
 - a. To scrutinize, search, and collect information related with a criminal act in the field of shipping;
 - b. To receive reports or information from a person on the presence of a criminal act in the field of shipping;
 - c. To summon a person for hearing or investigation as a suspect or a witness;
 - d. To make arrests and detentions on persons suspected to have committed a criminal act in the field of shipping;
 - e. To demand for information and evidence from persons suspected to have committed a criminal act in the field of shipping ;

- f. To take photos and/or recordings by audiovisual media on persons, goods, ships, or whatever that can be used as evidence of a criminal act in the field of shipping;
 - g. To check notes and accountings obligated by this Law and other accountings related with a criminal act in the field of shipping;
 - h. To take fingerprints;
 - i. To search ships and places, and check goods available there-in if there is a suspicion of a criminal act in the field of shipping;
 - j. To confiscate goods suspected seriously as goods used in the commitment of a criminal act in the field of shipping;
 - k. To place securing signs and to secure anything which can be used as evidences related with a criminal act in the field of shipping;
 - l. To make present expert witnesses required in connection with investigations of a criminal act in the field of shipping;
 - m. To demand the expulsion of a person suspected to have committed a criminal act in the field of shipping, and to check the identification of the suspect;
 - n. To stop investigations on a criminal act; and
 - o. To take other actions in accordance with accountable laws.
- (3) The civil servant investigator referred to in sub-article (1) shall report the result of his investigations to the public prosecutor thru the police investigator official of the Republic of Indonesia.

CHAPTER XIX

PENALTY PROVISIONS

Article 284

Any person who operates foreign ships to transport passengers and/or goods inter-island or between ports

in Indonesia territorial waters as meant in Article 8 sub-article (2) shall be penalized with imprisonment for a maximum of five (5) years and a fine in the amount of Rp 600,000,000.00 (six hundred million Rph) at the most.

Article 285

Any person who serves special sea transportation transporting cargo or goods of other parties and/or transporting cargo or general goods without the permit referred to in Article 13 sub-article (4) shall be penalized with imprisonment for a maximum of one (1) year or a fine in the amount of Rp 200,000,000.00 (two hundred million Rph) at the most.

Article 286

- (1) A Captain of a river and lake transportation who sails his ship on the sea without the permit of the Harbor-master referred to in Article 18 sub-article (6) shall be penalized with imprisonment for a maximum of three (3) years or a fine in the amount of Rp 200,000,000.00 (two hundred million Rph) at the most.
- (2) If the action referred to in sub-article (1) caused losses of assets, he shall be penalized with imprisonment for a maximum of four (4) years and a fine in the amount of Rp 500,000,000.00 (five hundred million Rph) at the most.
- (3) If the action referred to in sub-article (1) caused death of a person, the Captain shall be penalized with imprisonment for a maximum of 10 (ten) years and a fine in the amount of Rp 1,500,000,000.00 (one billion and five hundred million Rph) at the most.

Article 287

Any person who operates ships for water transportation without the business permit referred to in Article 27 shall be penalized with imprisonment for a maximum of one (1) year, or a fine in the amount of Rp 200,000,000.00 (two hundred million Rph) at the most.

Article 288

Any person who operates ships for river and lake transportation without the route permit referred to in Article 28 sub-article (4) shall be penalized with imprisonment for a maximum of one (1) year, or a fine in the amount of Rp 200,000,000.00 (two hundred million Rph) at the most.

Article 289

Any person who operates ships for ferry transportation without possessing ship operation approval as referred to in Article 28 sub-article (6) shall be penalized with imprisonment for a maximum of one (1) year, or a fine in the amount of Rp 200,000,000.00 (two hundred million Rupiah) at the most.

Article 290

Any person who performs service-related business without possessing any business permit as referred to in Article 33 shall be penalized with imprisonment for a maximum of one (1) year or a fine in the amount of Rp 200,000,000.00 (two hundred million Rph) at the most.

Article 291

Any person who did not perform his obligation to transport passengers and/or goods especially the transportation of posts as meant in Article 38 sub-article (1) shall be penalized with imprisonment for a maximum of one (1) year, or a fine in the amount of Rp 200,000,000.00 (two hundred million Rph) at the most.

Article 292

Any person not insuring his obligation as meant in Article 41 sub-article (3) shall be penalized with imprisonment for a maximum of six (6) months, and a fine in the amount of Rp 100,000,000.00 (one hundred million Rph) at the most.

Article 293

Any person who did not provide the special facilities and ease referred to in Article 42 sub-article (1) shall be penalized with imprisonment for a maximum of six (6) months, and a fine in the amount of Rp 100,000,000.00 (one hundred million Rph) at the most.

Article 294

- (1) Any person who transports special goods and hazardous goods not in accordance with the requirements referred to in Article 46 shall be penalized with imprisonment for a maximum of three (3) years or a fine in the amount of Rp 400,000,000.00 (four hundred million Rph) at the most.
- (2) If the action referred to in sub-article (1) caused losses of assets, he shall be penalized with imprisonment for a maximum of four (4) years and a fine in the amount of Rp 500,000,000.00 (five hundred million Rph) at the most.
- (3) If the action referred to in sub-article (1) caused death to a person and losses of assets, he shall be penalized with imprisonment for a maximum of 10 (ten) years and a fine in the amount of Rp 1,500,000,000.00 (one billion and five hundred million Rph) at the most.

Article 295

Any person transporting hazardous goods and special goods not submitting the notifications referred to in Article 47 shall be penalized with imprisonment for a maximum of six (6) months and a fine in the amount of Rp 100,000,000.00 (one hundred million Rph) at the most.

Article 296

Any person not insuring his obligation meant in Article 54 shall be sentenced in jail for a maximum of six (6) months, or a fine in the amount of Rp 100,000,000.00 (one hundred million Rph) at the most.

Article 297

- (1) Any person who build and operate river and lake ports without the permit referred to in Article 98 sub-article (1) shall be penalized with imprisonment for a maximum of two (2) years, or a fine in the amount of Rp 300,000,000.00 (three hundred million Rph) at the most.
- (2) Any person who utilizes coastlines for activities on ship-tethering, cargo loading and unloading, or embarkation and disembarkation of passengers for own interest outside of the activities of port, special terminal, and own-use terminal without the permit referred to in Article 339 shall be penalized with imprisonment for a maximum of two (2) years, or a fine in the amount of Rp 300,000,000.00 (three hundred million Rph) at the most.

Article 298

Any person not providing the guarantee on the performance of his indemnification obligations for the performance of activities in ports as referred to in Article 100 sub-article (3) shall be penalized with imprisonment for a maximum of six (6) months, and a fine in the amount of Rp 100,000,000.00 (one hundred million Rph) at the most.

Article 299

Any person who build and operate a special terminal without the permit referred to in Article 104 sub-article (2) shall be penalized with imprisonment for a maximum of two (2) years, or a fine in the amount of Rp 300,000,000.00 (three hundred million Rph) at the most.

Article 300

Any person who uses a special terminal without the Minister's permit referred to in Article 105 shall be penalized with imprisonment for a maximum of two (2) years, or a fine in the amount of Rp 300,000,000.00 (three hundred million Rph) at the most.

Article 301

Any person who operates a special terminal to serve trades to and from overseas without fulfilling requirements, and the stipulations referred to in Article 111 sub-article (4) or sub-article (5) are not yet available, shall be penalized with imprisonment for a maximum of two (2) years, or a fine in the amount of Rp 300,000,000.00 (three hundred million Rph) at the most.

Article 302

- (1) A Captain who sailed his ship while knowing that his ship is not sea-worthy as meant in Article 117 sub-article (2), shall be penalized with imprisonment for a maximum of three (3) years or a fine in the amount of Rp 400,000,000.00 (four hundred million Rph) at the most.
- (2) If the action referred to in sub-article (1) caused losses of assets, he shall be penalized with imprisonment for a maximum of four (4) years and a fine in the amount of Rp 500,000,000.00 (five hundred million Rph) at the most.
- (3) If the action referred to in sub-article (1) caused death of a person and losses of assets, he shall be penalized with imprisonment for a maximum of 10 (ten) years and a fine in the amount of Rp 1,500,000,000.00 (one billion and five hundred million Rph) at the most.

Article 303

- (1) Any person who operates a ship and a port without fulfilling the requirements on shipping safety and security, and marine environment protection as referred to in Article 122, shall be penalized with imprisonment for a maximum of two (2) years or a fine in the amount of Rp 300,000,000.00 (three hundred million Rph) at the most.
- (2) If the action referred to in sub-article (1) caused losses of assets, he shall be penalized with imprisonment for a maximum of four (4) years and a fine in the amount of Rp 500,000,000.00 (five hundred million Rph) at the most.

(3) If the action referred to in sub-article (1) caused death of a person, he shall be penalized with imprisonment for a maximum of 10 (ten) years and a fine in the amount of Rp 1,500,000,000.00 (one billion and five hundred million Rph) at the most.

Article 304

Any person who did not provide any assistance on the performance of checks and testing referred to in Article 128 sub-article (2) shall be penalized with imprisonment for a maximum of six (6) months or a fine in the amount of Rp 100,000,000.00 (one hundred million Rph) at the most.

Article 305

Any person who did not maintain his ship making it not to be in compliance with requirements on ship's safety as meant in Article 130 sub-article (1) shall be penalized with imprisonment for a maximum of six (6) months or a fine in the amount of Rp 100,000,000.00 (one hundred million Rph) at the most.

Article 306

Any person who operates a ship not meeting requirements of navigational equipment and/or ship electronic navigations as referred to in Article 131 sub-article (1), shall be penalized with imprisonment for a maximum of two (2) years, and a fine in the amount of Rp 300,000,000.00 (three hundred million Rph) at the most.

Article 307

Any person who operates a ship not equipped with any radio communication set and its ancillaries as referred to in Article 131 sub-article (2), shall be penalized with imprisonment for a maximum of two (2) years, and a fine in the amount of Rp 300,000,000.00 (three hundred million Rph) at the most.

Article 308

Any person who operates a ship not equipped with any meteorology equipment as referred to in Article 132 sub-article (1), shall be penalized with imprisonment for a maximum of two (2) years, and a fine in the amount of Rp 300,000,000.00 (three hundred million Rph) at the most.

Article 309

A Captain who is sailing his ship and knows the presence of bad weather endangering shipping safety, but did not disseminate it to other parties and/or the Government as meant in Article 132 sub-article (3) shall be penalized with imprisonment for a maximum of two (2) years and a fine in the amount of Rp 300,000,000.00 (three hundred million Rph) at the most.

Article 310

Any person who employs a crew not meeting the qualification and competence requirements referred to in Article 135 shall be penalized with imprisonment for a maximum of two (2) years, and a fine in the amount of Rp 300,000,000.00 (three hundred million Rph) at the most.

Article 311

Any person who hinders the freedom of action of a Captain to perform his obligations in accordance with provisions of statutory regulations as meant in Article 138 sub-article (4) shall be penalized with imprisonment for a maximum of two (2) years, and a fine in the amount of Rp 300,000,000.00 (three hundred million Rph) at the most.

Article 312

Any person who employs somebody on board in any position whatsoever without being certified and did not have the required competence and skill, and sailor documents as meant in Article 145 shall be penalized with imprisonment for a maximum of two (2) years, and a fine in the amount of Rp 300,000,000.00 (three hundred million Rph) at the most.

Article 313

Any person who uses containers as part of his transportation means not meeting requirements on the worthiness of the container as meant in Article 149 sub-article (1) shall be penalized with imprisonment for a maximum of two (2) years, and a fine in the amount of Rp 300,000,000.00 (three hundred million Rph) at the most.

Article 314

Any person who did not install the registration sign on a ship that had been registered as meant in Article 158 sub-article (5) shall be penalized with imprisonment for a maximum of six (6) months or a fine in the amount of Rp 100,000,000.00 (one hundred million Rph) at the most.

Article 315

A Captain flying the flag of another country as symbol of his nationality as meant in Article 167 shall be penalized with imprisonment for a maximum of one (1) year or a fine in the amount of Rp 200,000,000.00 (two hundred million Rph) at the most.

Article 316

(1) Any person who on purpose damaged or performed actions causing the malfunctions of Shipping Navigational Aid Means and facilities of shipping lanes on the sea, river and lake as well as Shipping Telecommunication as referred to in Article 174 shall be penalized with:

- a. imprisonment for a maximum of 12 (twelve) years if such action can cause dangers to shipping, or a fine in the amount of Rp 1,500,000,000.00 (one billion and five hundred million Rph) at the most.
- b. imprisonment for a maximum of 15 (fifteen) years if such action can cause dangers to shipping and such action caused a ship to sink or stranded, and/or a fine in the amount of Rp 2,000,000,000.00 (two billion Rph) at the most; or

c. imprisonment for life or imprisonment for a certain period; 20 (twenty) years at a maximum, if such action can cause dangers to shipping, and caused the death to anyone.

- (2) Any person who due to his negligence caused the malfunctioning of Shipping Navigational Aid Means and facilities of shipping lanes on the sea, river and lake as well as Shipping Telecommunication as referred to in Article 174 shall be penalized with imprisonment for a maximum of one (1) year or a fine in the amount of Rp 200,000,000.00 (two hundred million Rph) at the most, if such action can cause dangers to shipping.

Article 317

Captains who did not obey the provisions referred to in Article 193 sub-article (1) shall be penalized with imprisonment for a maximum of one (1) year or a fine in the amount of Rp 200,000,000.00 (two hundred million Rph) at the most.

Article 318

Any person who performs dredging and reclamation works on shipping lanes and port pool without the permit of the Government referred to in Article 197 sub-article (1) shall be penalized with imprisonment for a maximum of two (2) years, or a fine in the amount of Rp 300,000,000.00 (three hundred million Rph) at the most.

Article 319

Scout officers who performs scouting without having the certificate referred to in Article 199 sub-article (1) shall be penalized with imprisonment for a maximum of two (2) years, or a fine in the amount of Rp 300,000,000.00 (three hundred million Rph) at the most.

Article 320

Ship-owners and/or Captains who did not report their ship's body existing under Indonesian waters to the authorities referred to in Article 202 sub-article (1) shall be penalized with imprisonment for a maximum of six (6) months and a fine in the amount of Rp 100,000,000.00 (one hundred million Rph) at the most.

Article 321

Ship-owners and/or Captains not removing their ship's body and/or content disturbing shipping safety and security within the time limit stipulated by the Government as referred to in Article 203 sub-article (1) shall be penalized with imprisonment for a maximum of one (1) year and a fine in the amount of Rp 200,000,000.00 (two hundred million Rph) at the most.

Article 322

Captains performing activities on repairs, shipping trials, transfer of cargo in port pool, tugging, and loading and unloading of hazardous goods without the Harbor-master's permit as meant in Article 216 sub-article (1) shall be penalized with imprisonment for a maximum of six (6) months or a fine in the amount of Rp 100,000,000.00 (one hundred million Rph) at the most.

Article 323

- (1) A Captain who sails without having the Sailing Approval Letter issued by the Harbor-master referred to in Article 219 sub-article (1) shall be penalized with imprisonment for a maximum of five (5) years and a fine in the amount of Rp 600,000,000.00 (six hundred million Rph) at the most.
- (2) If the action referred to in sub-article (1) caused losses of assets, he shall be penalized with imprisonment for a maximum of 10 (ten) years and a fine in the amount of Rp 1,000,000,000.00 (one billion Rph) at the most.
- (3) If the action referred to in sub-article (1) caused any ship accident resulting in deaths, the Captain shall be penalized with imprisonment for a maximum of 10 (ten) years and a fine in the amount of Rp 1,500,000,000.00 (one billion and five hundred million Rph) at the most.

Article 324

Any ship crew who did not execute any preventive and tackling actions on the occurrence of pollution of the environment from the ship as referred to in Article 227 shall be penalized with imprisonment for a maximum of two (2) years, and a fine in the amount of Rp 300,000,000.00 (three hundred million Rph) at the most.

Article 325

- (1) Any person who disposed wastes of ballast water, dirt, garbage or other substances to the waters violating provisions of statutory regulations as referred to in Article 229 sub-article (1) shall be penalized with imprisonment for a maximum of two (2) years, and a fine in the amount of Rp 300,000,000.00 (three hundred million Rph) at the most.
- (2) If the action referred to in sub-article (1) caused damages to the living environment, he shall be penalized with imprisonment for a maximum of 10 (ten) years and a fine in the amount of Rp 500,000,000.00 (five hundred million Rph) at the most.
- (3) If the action referred to in sub-article (1) caused death to somebody, he shall be penalized with imprisonment for a maximum of 15 (fifteen) years and a fine in the amount of Rp 2,500,000,000.00 (two billion and five hundred million Rupiah) at the most.

Article 326

Any person who operates a ship emitting exhaust gas exceeding the threshold referred to in Article 229 sub-article (3) shall be penalized with Imprisonment for a maximum of two (2) years or a fine in the amount of Rp 300,000,000.00 (three hundred million Rph) at the most.

Article 327

Any person who did not insure his obligations referred to in Article 231 sub-article (2) shall be penalized with imprisonment for a maximum of six (6) months and a fine in the amount of Rp 100,000,000.00 (one hundred million Rph) at the most.

Article 328

Any person who transports hazardous and toxic substance wastes without observing the specification of the ship as referred to in Article 233 sub-article (1) shall be penalized with imprisonment for a maximum of two (2) years and a fine in the amount of Rp 300,000,000.00 (three hundred million Rph) at the most.

Article 329

Any person who performs ship-scraping without fulfilling the requirements on marine environment protection referred to in Article 241 sub-article (1) shall be penalized with imprisonment for a maximum of two (2) years and a fine in the amount of Rp 300,000,000.00 (three hundred million Rph) at the most.

Article 330

A Captain who knows the presence of danger and accident on his ship, on other ships, or to any person found to be in danger, but did not execute any preventive actions and did not disseminate the news on such matter to other parties, did not report it to the nearest Harbor-master or Representative Official of the Republic of Indonesia or to the official having the authority of the local country government in the event of danger if the accident occurred beyond Indonesia territorial waters, as meant in Article 244 sub-article (3) or sub-article (4), Article 247 or Article 248 shall be penalized with imprisonment for a maximum of three (3) years or a fine in the amount of Rp 400,000,000.00 (four hundred million Rph) at the most.

Article 331

Any person on a ship who knows of an occurring accident but did not provide any help within the limits of his capability or did not report the accident to the Captain and/or Ship Crew as referred to in Article 246, shall be penalized with imprisonment for a maximum of one (1) year or a fine in the amount of Rp 200,000,000.00 (two hundred million Rph) at the most.

Article 332

Any person who operates a ship or aircraft but did not assist in search and rescue efforts on a person encountering any disaster as referred to in Article 258 sub-article (2) shall be penalized with imprisonment for a maximum of one (1) year and a fine in the amount of Rp 200,000,000.00 (two hundred million Rph) at the most.

Article 333

(1) A criminal act in the field of shipping is deemed to be committed by a corporate if such criminal act was committed by a person acting for and/or in the name of the corporate or for the interest of the corporate, either based on work relationship or other relationships, acting within the corporate either severally or jointly.

Article 334

In the event of summons to a corporate to be present, the delivery of the summons letter to the management must be at the place used by the management as office, where the corporate operates, or at the residence of the management.

Article 335

In the event a criminal act was committed by a corporate, besides the imposing of imprisonment and fine penalties on its management, the penalty that may be imposed on the corporate may be three (3) times penalties stipulated in this Chapter.

Article 336

- (1) Any official who violates a special obligation of his position or at the time of committing a criminal act used his authority, opportunity, or means provided to him due to his position, shall be penalized with imprisonment for a maximum of one (1) year and a fine in the amount of Rp 200,000,000.00 (two hundred million Rph) at the most.
- (2) Besides the penalty referred to in sub-article (1), the performer may be imposed of additional sentence in the form of discharged from office.

CHAPTER XX
MISCELLANEOUS PROVISIONS

Article 337

Provisions on manpower in the field of shipping shall be exercised in accordance with provisions of statutory regulations in the field of manpower.

Article 338

Provisions on education and training of human resources as referred to in Article 263 and 264 are applicable *mutatis mutandis* in the field of transportation.

Article 339

- (1) Any person who utilizes coastlines to build facilities and/or to perform activities on ship-tethering, cargo loading and unloading, or embarkation and disembarkation of passengers for own-interest outside of the activities of a port, a special terminal and own-use terminal, must have a permit.
- (2) Further provisions on the mechanism and procedure of the permitting referred to in sub-article (1) shall be regulated with a Regulation of the Minister.

Article 340

Law enforcement authority in the Exclusive Economic Zone shall be exercised by the Navy of the Indonesian National Army in accordance with provisions of statutory regulations.

CHAPTER XXI

TRANSITIONAL PROVISIONS

Article 341

Foreign ships which at present are still operating domestic sea transportation activities can still perform their activities for three (3) years at the latest from the date this Law comes to effect.

Article 342

Port Administrators and Port Offices shall still perform their duties and functions until the new institutions based on this Law have been established.

Article 343

Activities of public ports, ferry ports, special ports, and own-use wharfs, that had been operated based on Law No. 21 Year 1992 concerning Shipping, shall continue to operate on condition that its roles, functions, types, hierarchy and status must be conformed to this Law no later than two (2) years from the date this Law comes to effect.

Article 344

- (1) By the time this Law becomes effective, the Government, the Regional Governments, and State-Owned Business Entities operating ports shall continue to perform the exploitation of such ports based on this Law.
- (2) In a period of three (3) years at the latest from the date this Law comes to effect, port business activities performed by the Government, the Regional Governments, and State-Owned Business Entities referred to in sub-article (1) must be adjusted to provisions regulated in this Law.
- (3) Exploitation activities at ports which have been operated by State-Owned Business Entities shall continue to be performed by such State-Owned Business Entities.

Article 345

- (1) Agreements or cooperation within Work Environment Areas between State-Owned Business entities performing port businesses and third parties are still valid.

- (2) By the time this Law becomes effective, the agreements or cooperation between the State-Owned Business Entities and the third parties must be performed in accordance with this Law.

Article 346

The guarding and law enforcing at sea and on the coasts, and coordination of security at sea shall continue to be performed in accordance with provisions of statutory regulations up to the establishment of the Sea and Coast Guard.

**CHAPTER XXII
CLOSING PROVISIONS**

Article 347

Government Regulations and other implementation regulations of this Law shall be stipulated one (1) year at the latest from the date this Law comes to effect.

Article 348

Port Authorities, Port Performer Units, and Harbor-masters must be established within one (1) year at the latest from the date this Law comes to effect.

Article 349

National Port Master Plan shall be stipulated by the Government within two (2) years at the latest from the date this Law comes to effect.

Article 350

Main ports to function as international connections must be stipulated by the Government two (2) years at the latest from the date this Law comes to effect.

Article 351

- (1) Port Master Plans, Work Environment Areas, and Interest Environment Areas of ports that had existed before this Law, should be completely evaluated and conformed to this Law within two (2) years at the latest from the date this Law comes to effect.
- (2) Port Master Plans, Work Environment Areas, and Interest Environment Areas of ports not yet stipulated based on Law No. 21 Year 1992 concerning Shipping must be stipulated within a period of two (2) years at the latest from the date this Law comes to effect.

Article 352

Sea and Coast Guard must be established within three (3) years at the latest from the date this Law comes to effect.

Article 353

By the time this Law becomes effective, all implementation regulations of Law No. 21 Year 1992 concerning Shipping are declared to remain in force to the extent it is not contradictory to or are not yet replaced with new ones based on this Law.

Article 354

By the time this Law becomes effective, Law No. 21 Year 1992 concerning Shipping (R.I. State Gazette Year 1992 No. 98, Supplement to R.I. State Gazette No. 3493), shall be revoked and declared as no more in effect.

Article 355

This Law commences to become effective from the date of enactment.

For public cognizance, this Law shall be announced by promulgating it in the Statute Book of the Republic of Indonesia.

Stipulated in Jakarta,
On May 7, 2008

THE PRESIDENT OF THE REPUBLIC OF INDONESIA

Sgd

DR. H. SUSILO BAMBANG YUDHOYONO

Promulgated in Jakarta
On May 7, 2008

THE MINISTER OF LAW AND HUMAN RIGHTS
OF THE REPUBLIC OF INDONESIA

Sgd

ANDI MATTALATTA

(STATUTE BOOK OF THE REPUBLIC OF INDONESIA
YEAR 2008 NO. 64)

—==(D)—==

Business News 7695/8-1-2008

Business News



Business News

SHIPPING

(Law Number 17 Year 2008 dated March 7, 2008)
 [Continued from Business News No. 7695 pages 6A-34A]

ELUCIDATION OF
 LAW OF REPUBLIC OF INDONESIA NO. 17
 YEAR 2008
 ON
 SHIPPING

I. GENERAL

With the blessing of the One and Only God, Unitary State of the Republic of Indonesia is blessed as an archipelago consisting of thousands of islands spread along the equator between two continents and two oceans, therefore having an essential and strategic position and role in the communication between nations.

The strategic position of Unitary State of the Republic of Indonesia must be utilized at a maximum as a basic capital for the national development based on the 1945 Constitution to realize a safe, peaceful, just and democratic Indonesia as well as to improve the prosperity of the people.

In the framework of performing the national development and realization of the Archipelagic Concept, it is necessary to compile an effective and efficient national transportation system to support and simultaneously to motivate the dynamics of the development, increase the mobility of man, goods and services, to assist the creation of a stable and dynamic national distribution pattern as well as to support the development of the regions and to stabilize the development of

the life of the society, nation and country; support the defense and security, and further strengthen ties of international relationship.

Transportation is a means to expedite the wheels of economy, to strengthen the unity and union in the framework of stabilizing the realization of the Archipelagic Concept, to enhance and support state security and defense, and further strengthen international relationship.

The importance of transportation is shown in its performance which affected all aspects of the life of the nation and state as well as the ever increasing need for transportation services for the mobility of man and goods domestically as well as to and from abroad.

Other than that, transportation also has a role as supporter, driver, and motivator for the growth of the regions having great natural resources potentials, however not yet developed, in the effort of improving and equalizing of the development with its gains.

Realizing the importance of transportation role, sea transportation as one of transportation modes must be arranged in one integrated national transportation system unity and capable of realizing the provisions of a balanced transportation services in accordance with the level of needs and the availability of transportation services that is safe, highly accessible, integrated, adequate capacity, regular, smooth and fast, easily gained, timely, comfortable, cheap fare, orderly, secure, low pollution, and efficient.

Sea transportation having the characteristics of national transportation and covering all of the areas thru waters is required to be developed as of its potentials and enhanced as of its role as inter-region connector, both nationally and internationally including border-crossing, because it is used as means to support, drive, and motivate the national development in the effort to improve the prosperity of the people as well as to unite the Unitary State of the Republic of Indonesia.

Considering the importance and strategic role of sea transportation controlling the basic needs of the people, its existence shall be controlled by the State where-in its nurturance shall be performed by the Government.

In the passage of time, Law No. 21 Year 1992 concerning Shipping is required to be adjusted since various changes of paradigm and strategic environment had occurred, both in Indonesia State System such as the implementation of regional autonomy and developments in the field of science and technology.

Other than that, definition of the term "shipping" as a system had also changed, and consists of water transportation, port affairs, shipping safety and security, and marine environment protection, which further require adjustments with needs and development of the era and of science and technology so that the world of shipping can play a role in the international world.

Based on the above matters, Law on Shipping is compiled which is a perfection of Law No. 21 Year 1992, so that the performance of shipping as a system can contribute the greatest benefit to the whole people,

nation and state, to foster and develop marine spirit by prioritizing the interest of the public, and preservation of the environment, coordination between the central and the regions, and state security and defense.

Law on Shipping consisting of four main elements i.e. transportation on water, harbor affairs, safety and security of shipping, and marine environment protection can be described as follows:

a. Arrangements in the field of water transportation contain the principle of cabotage as its implementation principle by empowering national marine transportation that provides a conducive climate to proceed the water transportation industries, among others thru facilities in the field of taxation and capital in the prct of ships and the availability of long term contracts for transportation;

In the framework of empowering the national marine transportation industry, mortgage on ships is also regulated in this Law. This arrangement is one of the efforts to assure creditors that Indonesian ships can be used as mortgage based on legislations, therefore national marine transportation companies can easily get funds for the development of its armada;

b. Arrangements in the field of harbors contain provisions on the revocation of monopoly in the operations of harbors, separation between regulator and operator functions, and enabling the participation of the regional governments and private sector in the performance of harbor affairs;

c. Arrangements.....

- c. Arrangements in the field of shipping safety and security contain provisions anticipating the development of technology by referring to international conventions preferring the use of latest equipment for means and infrastructures of shipping safety, besides accommodating provisions on shipping safety system contained in "International Ship and Port Facility Security Code"; and
- d. Arrangements in the field of marine environment protection containing provisions on the prevention and coping of marine environment pollution caused by the operations of ships and similar means by accommodating related international provisions such as "International Convention for the Prevention of Pollution from Ships".

Other than the above matter, issues that must be expressly and clearly regulated in this Law is the formation of an institution in the area of Sea and Coast Guard, established and responsible to the President, and technically operational exercised by the Minister.

The Sea and Coast Guard has a command function in the enforcement of regulations in the field of shipping safety and security, and coordination function in the field of law enforcement beyond shipping safety. The Sea and Coast Guard is an empowerment of the Sea Safety Coordination Body and augmentation of the Sea and Coast Guarding Unit.

Thru this arrangement, enforcement of regulations in the field of shipping safety and security can be executed synchronously and coordinated properly, therefore the authority of enforcement of law at sea will not be over-lapping likely to reduce image on Indonesia in the relations between nations.

State Owned Business Enterprises which all this time had carried out port exploitations, may still carry out the same activities by obtaining a delegation of authority from the Government, in the effort to enhance the role of State Owned Business Enterprise to support the economic growth.

Thru the enactment of this Shipping Law, various provisions existing in other legislations related with shipping, among others Trade Law Code (Wet Borepubliek Van Koophandel), Territorial Sea and Marine Environment Protection Ordinance Year 1933, Law no. 1 Year 1973 concerning Indonesian Continental Shelf, Law No. 5 Year 1983 concerning Indonesian Exclusive Economic Zone, Law No. 17 Year 1985 concerning ratification of United Nations Convention on the Law of the Sea Year 1982, Law No. 6 Year 1996 concerning Indonesian Waters, Law No. 23 Year 1997 concerning Management of the Living Environment, Law No. 31 Year 2004 concerning Fishery, and to the extent concerning shipping safety and security aspect, are subject to arrangements in this Law on Shipping.

In this Law, matters that are fundamental in nature are regulated, whereas those that are technical and operations in nature, are regulated in Government Regulations and other implementation regulations.

II. ARTICLE BY ARTICLE

Article 1

Self-explanatory

Article 2

Letter a

What is meant by "benefit" is that shipping must be able to provide maximum benefit for humanity, improving the prosperity of the people and improvement for the citizens, and improving State security and defense.

Letter b

What is meant by "common effort and familiarity" is that the performance of business in the field of shipping shall be carried out to achieve the national goal where-in its activities can be performed by the whole community and inspired by the spirit of familiarity.

Letter c

What is meant by "healthy competition" is that the performance of domestic water transportation must be able to develop its business independently, competitively, and professionally.

Letter d

What is meant by "justice and equality without discrimination" is that the performance of shipping must be able to provide a fair and equal service to all layers of the community with fares within the reach of the community without differentiating their ethnics, religions, descendants, and economy level.

Letter e

What is meant by "balance, harmony and conformity" is that shipping must be performed as such that there is a balance, harmony and conformity between means and infrastructures, between the interest of service users and providers, between the interests of individuals and the public, and between the interest of the nation and international.

Letter f

What is meant by "public interest" is that the performance of shipping must prioritize the interest of the whole community;

Letter g

What is meant by "synchronization" is that shipping must be a whole and round unity, integrated, supporting each other, and filling each other both inter and intra-mode.

Letter h

What is meant by "rule of law principle" is that this Law obligates the Government to enforce and guarantee legal certainty and obligates all Indonesian citizens to be always aware of and in compliance to law in the performance of shipping.

Letter i

What is meant by "independent" is that shipping must be founded on national personality, based on self-capability and strength, prioritizing the national interest in shipping and paying heed to logical cargo segment in water transportation from and to abroad.

Letter j

What is meant by "living environment vision" is that the performance of shipping must be carried out with a living environment vision.

Letter k

What is meant by "state sovereignty" is that the performance of shipping must be able to keep the integrity of the territory of the state of The Republic of Indonesia.

Letter l

What is meant by "nationality" is that the performance of shipping must be able to show the pluralistic character and nature of the Indonesian nation by always adhering to the principle of the Unitary State of the Republic of Indonesia.

Article 3.....

(To be continued)

====(D)=====



S H I P P I N G

(Law Number 17 Year 2008 dated March 7, 2008)

[Continued from Business News No. 7712 pages 31A-34A]

ELUCIDATION OF
LAW OF REPUBLIC OF INDONESIA NO. 17
YEAR 2008
ON
SHIPPING

moving power, and placed at a certain water location and cannot move at the same time, e.g. floating hotel, accommodation barge to support off-shore activities and oil storage barge, and mobile off-shore drilling units (modu).

Article 3

Self-explanatory

Article 4

Included in the Indonesian waters are ground waters among others rivers, lakes, dams, and canals.

What is meant by "ship" in letters b and c are:

- a. Ship moved by wind are sailing ships;
- b. Ships moved by mechanical power are ships having engine generating power, such as motor ships, steamship, ships with solar power, and nuclear ships;
- c. Hauled or tugged ships are ships moving by using generating device in the form of other ships;
- d. Vehicle having dynamic support power are types of ships operated at water surface or above the water surface using dynamic support power caused by its own speed and/or by the design of the ship, e.g. jet foil, hydro foil, hovercraft, and other fast ships meeting certain criteria;
- e. Sub-surface ships are types of ships able to move under water surface; and
- f. Immovable floating devices or floating buildings are floating devices or floating buildings not having its own

Article 5

Sub-Article (1)

Definition of state-controlled is that the state has control rights on the performance of shipping where-in its realization consists of regulating, control and supervision.

Sub-Article (2) thru Sub-Article (7)

Self-explanatory

Article 6 thru Article 7

Self-explanatory

Article 8

Sub-Article (1)

The use of ships flying Indonesian banners by national sea transportation companies is purported in the framework of implementing the principle of cabotage to protect the sovereignty of the state, and to support the materialization of the Archipelagic Concept as well as to provide the broadest business opportunities to national sea transportation companies to obtain cargo segment.

Sub-Article (2)

Self-explanatory

Article 9

Sub-Article (1)

What is meant by "inter-modes" covers domestic sea transportation, foreign sea transportation, special sea transportation, and people shipping transportation.

What is meant by "between modes" is the integration of land transportation, sea transportation, and air transportation. The inter and intra-modes constitute the national transportation unity.

Sub-Article (2)

What is meant by "fixed and regular route (liner)" is the operations of sea transportation performed constantly and regularly, scheduled and stating its visited ports.

What is meant by "not fixed and irregular route (tramper)" is the operations of sea transportation performed not constantly and irregularly.

Sub-Article (3)

What is meant by "route net" is a collection of routes which form a unity of sea transportation services for passengers and/or goods from one port to another.

Sub-Article (4)

Self-explanatory

Sub-Article (5)

The establishment of a fixed and regular route is meant to provide legal and business certainty to sea transportation services users and providers.

Sub-Article (6)

Self-explanatory

Sub-Article (7)

Letter a and Letter b

Self-explanatory

Letter c

What is meant by "balance of demand and

availability of ships' space (supply and demand)" is the realization of services in a route measurable with certain load factor.

Letter d and Letter e

Self-explanatory

Sub-Article (8)

Self-explanatory

Article 10

Self-explanatory

Article 11

Sub-Article (1)

Self-explanatory

Sub-Article (2)

What is meant by "logical load segment" is that logical does not always means to get an equal share, but getting a segment as stipulated in legislations, e.g. bilateral agreements, international conventions ratified by the government of the Republic of Indonesia, and other regulations. Particularly for goods of the Government, it is necessary to endeavor that its transportation shall be carried out by national sea transportation companies.

National sea transportation companies are entitled to enter into cooperation with foreign sea transportation companies to determine fair share agreements.

Sub-Article (3)

Self-explanatory

Sub-Article (4)

What is meant by "national companies" are national sea transportation companies and business entities particularly established for agency activities meeting determined requirements.

Sub-Article (5)

What is meant by "continuously" is that sea transportation activities to or from Indonesian ports opened to foreign trade performed by foreign sea transportation companies shall be continuous and uninterrupted.

Article 12

Self-explanatory

Article 13

Sub-Article (1)

Included in activities of special transportation performed by business in the field of industry, tourism, mining, agriculture, and special activities such as research, dredging, social activities, etc and not serving other parties and not transporting public cargoes. The special sea transportation both domestically and overseas may be carried out in the framework meeting requirements which due to the nature of its cargo is still not performed by public sea transportation service providers.

Sub-Article (2)

What is meant by "operations permit" is a permit provided to performers of special sea transportation activities related with the operations of its ship to support its primary business.

Sub-Article (3) thru Sub-Article (7)

Self-explanatory

Article 14

Self-explanatory

Article 15

Sub-Article (1)

What is meant by "community effort" is business performed by Indonesian citizens and/or Indonesian Business Entities by encouraging businesses that are cooperative in nature.

Such community effort has a traditional characteristic and nature found not only in the method of business management and its management, e.g. concerning the work relationship between the ship owner and the crew, but also on the type and form of ship being used. These issues need to be preserved and developed by paying due observance on the development of science and technology.

What is meant by "separate characteristic" is among others as follows:

- a. length and type of certain ships (pinisi, lambo, nade, and lete);
- b. wind moving force for sailing ships, or engine with a power less than 535 TK or $535 \text{ TK} \times 0.736 = 393.76 \text{ KW}$;
- c. manning with qualification different from the qualification stipulated for ships;
- d. scope of operations can reach isolated areas having no port facilities and a shallow water depth, and bordering countries; and
- e. loading and unloading activities are performed by manpower.

Sub-Article (2)

What is meant by "Indonesian citizen individual" are individuals meeting requirements to carry out business in the field of people-shipping sea transportation.

The requirements among others are Identification Card, river and lake ship feasibility letter, statement of domicile, etc.

Article 16

Sub-Article (1)

This provision is meant to be one of the efforts to provide protection on the continuation of people-shipping sea transportation business, and oriented to meet the market's demand, besides carrying out transportation activities, can also perform loading-unloading activities and cargo expedition activities, without reducing the nurturance on other water transportation elements.

Sub-Article (2)

The development of people-shipping sea transportation business can be performed by the Government in the form of regulating, nurturing and training thru the utilization of its characteristics.

People-shipping sea transportation can serve river and lake transportation to the extent it meets requirements on route and depth of the river and lake.

What is meant by "improving its capability as national sea transportation business field and field of work" is by providing facilities to get capital from financial institutions.

Sub-Article (3)

People-shipping sea transportation activities besides performing business activities within Indonesian waters can also visit ports of neighboring countries (border crossing) in the framework of carrying out traditional trade activities between countries.

Article 17

Self-explanatory

Business News 7713-7714/9-17-2008

Article 18

Sub-Article (1)

The use of ships flying Indonesian flags by river and lake transportation companies domestically is in the framework of implementing the principle of cabotage to protect State sovereignty and to support the materialization of the Archipelagic Concept in the Indonesian archipelago.

What is meant by "Indonesian citizen individuals" are individuals meeting requirements to carry out business in the field of people-shipping river and lake transportation.

The requirements among others are Identification Card, river and lake ship feasibility letter, statement of domicile

Sub-Article (2)

What is meant by "agreement between the Government of the Republic of Indonesia and the Government of neighboring countries" are the agreement that had been approved by the countries covering among others ships' conditions, ship quota, and administration requirements.

Sub-Article (3)

Self-explanatory

Sub-Article (4)

What is meant by "intra-mode" in river and lake transportation activities is ferry transportation.

What is meant by "inter-mode" is the integration of land transportation, sea transportation and air transportation.

The intra-mode and the inter-mode constitute a unity of the national transportation.

Sub-Article (5)

Sub-Article (5)

What is meant by "fixed route" is the services of river and lake transportation performed constantly and regularly, scheduled and stating its visited ports.

What is meant by "not fixed and irregular route" are services of river and lake transportation performed not constantly and irregularly.

Sub-Article (6)

What is meant by "permit of the Harbor-master is an approval to sail.

Article 19 and Article 20

Self-explanatory

Article 21

Sub-Article (1)

The use of ships flying Indonesian flags by ferry transportation companies domestically is in the framework of implementing the principle of cabotage to protect State sovereignty and to support the materialization of the Archipelagic Concept.

Sub-Article (2)

Ferry transportation activities between the State of the Republic of Indonesia with neighboring countries shall be performed in accordance with the principle of reciprocal.

Sub-Article (3)

Self-explanatory

Article 22

Sub-Article (1)

Self-explanatory

Sub-Article (2)

Letter a and Letter b

Self-explanatory

Letter c

What is meant by "certain distance" is that not all of the land separated by waters is connected with ferry

transportation, but the lands that are connected are the development of road nets or railway nets separated by water, by still meeting the characteristics of ferry transportation.

Letter d thru Letter f

Self-explanatory

Sub-Article (3)

Self-explanatory

Article 23

Self-explanatory

Article 24

Sub-Article (1)

Usually, the performance of transportation to and from remote areas is not profitable commercially making transportation performers generally are not attracted to serve such routes.

Therefore, in order to develop such areas and to break-up its isolation, transportation to and from remote and less developed areas with developed or progressing areas shall be performed by the Government by including performers of water transportation, both private and cooperatives.

Sub-Article (2) Sub-Article (4)

Self-explanatory

Sub-Article (5)

What is meant by "integrated cross-sector based on regional development approach" is that the compilation of proposals on pioneer sea transportation routes shall be coordinated by the regional government by including related agencies and paying due observance on the integration of programs of other sectors such as trade, estates, transmigration, fishery, tourism, education, and agriculture in the framework of developing potentials of the region.

Sub-Article (6)

Self-explanatory

Article 25

What is meant by "long term contract" is a term of at least five years, meant to provide guarantee so that the sea transportation company performing the pioneer-shiping can perform ship rejuvenation.

Article 26

Self-explanatory

Article 27

The obligation to have business permit in the performance of water transportation is meant as measure of nurturing, controlling and supervision of water transportation to provide certainty of business and legal plnd for services providers and users.

Article 28

Self-explanatory

Article 29

Sub-Article (1)

"GT" is the abbreviation of Gross Tonnage meaning the total gross volume of ship calculated according to provisions of international conventions on the measurement of ships (International Tonnage Measurement of Ships) year 1969.

Sub-Article (2)

In the framework of developing the national shipping industry, foreign investment is allowed, whereas concerning its ownership shall pay heed to statutory regulations in the field of capital investment.

Article 30 and Article 31

Self-explanatory

Article 32

Sub-Article (1)

Self-explanatory

Sub-Article (2)

What is meant by "certain goods" are passenger goods, liquid poured goods unloaded or loaded by pipes, dry poured goods unloaded or loaded by conveyors or the like, goods carried by Ro-Ro, and all types of goods in a port where there is no loading-unloading companies. In the meantime, the loading-unloading of goods other than those mentioned above must be made by loading-unloading companies.

Sub-Article (3)

Self-explanatory

Sub-Article (4)

What is meant by "cargodoring" are works to dismantle goods from ropes or nets (ex tackle) in docks and transporting it from the dock to warehouses or collecting fields, further to compile them in the warehouses or collecting fields or vice versa.

What is meant by "receiving/delivery" are works to remove goods from piling-up places in warehouses or collecting fields and to deliver them up to its compilation on vehicles at the door of the warehouse or collecting field or vice versa.

What is meant by "stuffing" are works to pile up goods in containers performed in warehouses or collecting fields.

What is meant by "stripping" are works unloading goods from containers performed in warehouses or collecting fields.

Article 33 and Article 34

Self-explanatory

Article 35

Sub-Article (1) thru Sub-Article (3)

Self-explanatory

Sub-Article (4)

Tariff types are collectibles on any services provided by sea transportation performers to users of sea transportation services.

Tariff structure is a tariff form connected with the time and measurement unit of each type of transportation service in one transportation package.

Tariff group is a grouping of tariff stipulated based on the type of services, classification, and facilities provided by transportation performers.

Article 36 and Article 37

Self-explanatory

Article 38

Sub-Article (1)

This provision as the purpose so that transportation companies do not discriminate users of transportation services to the extent the concerned party fulfilled approved transportation agreement.

Transportation agreement should be completed with transportation documents stipulated in international agreements as well as national legislations

Sub-Article (2)

What is meant by "cargo document" is the Bill of Lading or Konosemen or Manifest.

Sub-Article (3)

What is meant by "certain condition" are conditions such as natural disasters, accidents at sea, social uprisings nation-wide, and State in danger situation declared officially by the Government.

Article 39 and Article 40

Self-explanatory

Article 41

Paragraph (1)

Letter a

What is meant by "death or injury of carried passengers" is the death of or injury to passengers due to accidents during transportation and occurring on a ship, and/or accidents during embarkation or disembarkation, in accordance with legislations.

Letter b

The responsibility shall be in accordance with transportation agreements and legislations.

Letter c

Such responsibility covers among others services to passengers in the limits of decency while awaiting for departure in the event of departure delays due to negligence of a water transportation company.

Letter d

What is meant by "third party" are Indonesian individual citizens or legal entities having no connection with the operations of ship, but dead or injured or undergoing losses due to the operations of ship.

Paragraph (2)

Self-explanatory

| | |
|--|---|
| Paragraph (3) | Article 45 |
| What is meant by "basic insurance protection " is the insurance regulated in provisions of legislations in the area of insurance. | Self-explanatory |
| Article 42 | Article 46 |
| Paragraph (1) | What is meant by "special ship for transporting hazardous goods" are ships specially designed to carry hazardous goods, among others gas, natural oil, chemical and radioactive substances. |
| Special services for passengers who are disabled, pregnant woman, children under five (5) years, sick people, and senior citizen is meant so that they can enjoy good transportation services. | Article 47 |
| What is meant by "special facilities" may be in the form of special lanes in ports and special means to board or get off a ship, or the provision of space specially provided for the placement of wheeled chairs or aid means for sick people who must be carried in sleeping position. | Self-explanatory |
| What is meant by "disabled" is e.g. a passengers using wheeled chairs due to paralysis, lame, or blind, etc. | Article 48 |
| Excluded from the definition of sick person in this provision are persons suffering from contagious diseases in accordance with legislations. | Self-explanatory |
| What is meant by "senior citizen" is in accordance with legislations. | Article 49 |
| Paragraph (2) | Self-explanatory |
| Self-explanatory | Article 50 |
| Article 43 | Self-explanatory |
| Self-explanatory | Article 51 |
| Article 44 | Self-explanatory |
| Self-explanatory | Article 52 |
| | Self-explanatory |
| | Article 53 |
| | Paragraph (1) |
| | Self-explanatory |
| | Paragraph (2) |
| | Self-explanatory |

Paragraph (3)

What is meant by "operator's responsibility is limited in nature" is that the responsibility of a multi-mode transportation operator on losses due to delays of delivery is limited to an amount comparable to two and a half (2 1/2) times the transportation cost to be paid on the delayed goods, however it shall not exceed the amount of transportation costs to be paid based on a multi-mode transportation contract.

The overall amount of obligation being the burden of a multi-mode transportation operator shall not exceed the limit of the obligation caused by the total amount of losses on the goods.

Article 54

Self-explanatory

Article 55

Self-explanatory

Article 56

Self-explanatory

Article 57

Paragraph (1)

Letter a

What is meant by "provision of facilities in the field of funding and taxation" is:

- a. developing a non-bank financial institution particularly for funding the procurement of the national commercial armada;

- b. facilitating the availability of fund for the development of national commercial armada both originating from banks and non-bank financial institutions with an attractive loan condition; and
- c. providing fiscal incentives for the development and procurement of the national commercial water armada.

Letter b

Self-explanatory

Letter c

Self-explanatory

Paragraph (2)

Letter a

What is meant by "integrated ship industry zone" is an industrial center consisting of facilities for among others construction, treatments, repairs, and maintenance integrated with its supporting industries, such as ship material, engines, and ancillaries.

Letter b

Self-explanatory

Letter c

Self-explanatory

Letter d

What is meant by "ship raw material and components" among others are spare-parts and equipment of ships.

Letter e

Self-explanatory

Letter f

Self-explanatory

Letter g

Self-explanatory

Letter h

Self-explanatory

| | |
|---|--|
| Article 58 | Article 65 |
| Self-explanatory | Self-explanatory |
| Article 59 | Article 66 |
| Self-explanatory | Paragraph (1) |
| Article 60 | Self-explanatory |
| Paragraph (1) | Paragraph (2) |
| Self-explanatory | Self-explanatory |
| Paragraph (2) | Paragraph (3) |
| Self-explanatory | Self-explanatory |
| Paragraph (3) | Paragraph (4) |
| Self-explanatory | Salvage costs shall be prioritized to other prioritized shipping debts so as not to disturb shipping lanes and port pools likely to hinder the traffic of ships. |
| Paragraph (4) | Article 67 |
| What is meant by "executorial power" is that holders of mortgages are entitled to use grosse mortgage deed as legal basis to perform an execution without any claim process in court. | Self-explanatory |
| Paragraph (5) | Article 68 |
| Self-explanatory | Letter a |
| Article 61 | Self-explanatory |
| Self-explanatory | Letter b |
| Article 62 | What is meant by "gate of economy activities" are means for the development of the regional economy, national economy, and international trade activities |
| Self-explanatory | Letter a thru Letter f |
| Article 63 | Self-explanatory |
| Self-explanatory | Article 69 |
| Article 64 | Self-explanatory |
| Self-explanatory | |

Article 70

Sub-Article (1)

Letter a

What is meant by "sea port" are ports that can be used to serve sea transportation and/or ferry transportation.

Letter b

Self-explanatory

Sub-Article (2)

Letter a

Main ports shall function as:

- a. international port; and
- b. international hub port

What is meant by "international port" is a main port opened for overseas trade.

What is meant by "international hub port" is a main port opened for overseas trade and functions as transshipment port for goods between countries.

Letter b and Letter c

Self-explanatory

Article 71 and Article 72

Self-explanatory

Article 73

Sub-Article (1)

Self-explanatory

Sub-Article (2)

What is meant by "technical feasibility" among others concern condition of the waters (wave, current, depth, and tide) and condition of land (contour of land surface).

What is meant by "environmental feasibility" is that the place to be used as port location does not disturb the environment, and is in accordance with its allotment.

Article 74

Sub-Article (1)

Self-explanatory

Sub-Article (2)

Letter a

What is meant by "main facilities" are, among others piers, warehouses, collecting fields, passenger terminals, container terminals, Ro-Ro terminals, waste accommodation and processing facilities, bunker facilities, fire fighting facilities, warehouse facilities for hazardous and toxic substance or goods, equipment maintenance and repair facilities, and Shipping - Navigation Aid Means.

Letter b

What is meant by "supporting facilities" among others are offices area, post and telecommunications facilities, tourism and hotel facilities, clean water, electricity and telecommunication installation, road and rail nets, waste water, drainage and garbage net, motor vehicle stops, trade zones, industry zone, and other public facilities (religious, parks, recreations, sport, green belt, and health).

Sub-article (3)

Letter a

What is meant by "main facilities" among others are shipping lanes, docking waters, port pool for docking and maneuvering of ships, waters for ships transporting hazardous substances or goods, waters for quarantine activities, waters as connecting lanes between ports, piloting waters, and waters for Government's ships.

Letter b

What is meant by "supporting facilities" among others are facilities for ship building and maintenance, waters for shipping trials, waters for dead ships, waters for emergencies, waters for recreation activities (water tourism).

Article 75

Sub-Article (1)

Self-explanatory

Sub-Article (2)

What is meant by "geographic coordinate" are coordinates determined by latitude and longitude.

Sub-Article (3) and Sub-Article (4)

Self-explanatory

Sub-Article (5)

What is meant by "controlled by the state" is that the state has control rights on the utilization of land and/or waters stipulated as port Work Environment Area and Interest Environment Area where-in its realization covers the aspects of arrangements, control and supervision.

Sub-Article (6)

Self-explanatory

Article 76

Sub-Article (1)

The stipulation of Port Master Plan as well as port Work Environment Area and Interest Environment Area for regional feeder sea port is stipulated by the Governor, whereas local feeder ports are stipulated by the regent/ mayor.

Sub-Article (2)

Self-explanatory

Article 77 thru Article 79

Self-explanatory

Article 80

Sub-Article (1)

Self-explanatory

Sub-Article (2)

What is meant by "other government activities" among others are forestry and mining activities performed by the agencies having the authority in the context of preventing illegal logging and illegal mining entering and getting out thru ports.

Sub-Article (3) thru sub-Article (5)

Self-explanatory

Article 81

Self-explanatory

Article 82

Sub-Article (1) and Sub-Article (2)

Self-explanatory

Sub-Article (3)

One (1) Port Authority and Port Performer Unit can supervise several ports (cluster).

Sub-Article (4)

What is meant by "other forms" among others are leasing of land, warehouse, and collecting points. Agreement should at least contain obligations and rights of the parties, performance to be achieved by Port Business Entities, and term of concession.

Sub-Article (5) and Sub-Article (6)

Self-explanatory

Article 83 thru Article 89

Self-explanatory

Article 90

Sub-Article (1) thru Sub-Article (3)

Self-explanatory

Sub-Article (4)

What is meant by "activities supporting the smoothness of operations and providing added value to ports" among others are offices, tourism facilities and hotels, clean water, electricity and telecommunication installation, road and rail nets, waste water, drainage and garbage net, bunker services, and bus stops.

Article 91

Sub-Article (1) thru Sub-Article (3)

Self-explanatory

Sub-Article (4)

What is meant by "in certain cases" is if it is found out that there are Port Business Entities capable of utilizing the terminal and other port facilities to serve activities gaining commercial benefits.

Sub-Article (5)

Self-explanatory

Article 92 thru Article 95

Self-explanatory

Article 96

Sub-Article (1)

For regional feeder ports, permits are given by the Governor, whereas for local feeder ports, permits are given by the regent.

Sub-Article (2)

Self-explanatory

Article 97

Sub-Article (1)

What is meant by "operational requirements" are Port Operational Standard, human resources operating them, preparedness of other agencies such as quarantine, customs and excise and immigration according to requirements.

Sub-Article (2)

For regional feeder ports, permits are given by the Governor, whereas for local feeder ports, permits are given by the regent.

Article 98 thru Article 101

Self-explanatory

Article 102

Sub-Article (1)

What is meant by "certain activities" are activities to support main business activities which cannot be served by a port due to the nature of cargo or its activities require special services or its location is far from the port. The main business activities among others are:

- a. mining;
- b. energy;
- c. forestry;
- d. fishery;
- e. industry;
- f. and dock and ship pier

Sub-Article (2)

Self-explanatory

Article 103 thru Article 110

Self-explanatory

Article 111

Sub-Article (1) thru Sub-Article (3)

Self-explanatory

Sub-Article (4)

Letter a

What is meant by "administration aspect" is recommendation from the governor, regent / mayor and local Harbor Master.

Letter b

What is meant by "economy aspect" is supporting certain industries with a flow of a great volume of special goods.

Letter c

What is meant by "aspect of shipping safety and security" is the fulfillment of the depth of waters and port pools, Shipping - Navigation Aid Means, coast radio station including means and infrastructures, as well as human resources.

Letter d

What is meant by "aspect of port facility techniques" are basic facilities, supporting facilities, and facilities for the prevention and tackling of pollution.

Letter e and Letter f

Self-explanatory

Sub-Article (5)

Self-explanatory

Article 112 thru Article 114

Self-explanatory

Article 115

Sub-Article (1)

Self-explanatory

Sub-Article (2)

What is meant by "legislations" are regulations concerning the regional government.

Article 116

Self-explanatory

Article 117

Sub-Article (1)

Self-explanatory

Sub-Article (2)

Letter a thru Letter f

Self-explanatory

Letter g

What is meant by "Management of Safety and Prevention of Pollution from Ships" is an entirety of system, procedure and mechanism in writing and documented for sea transportation companies and merchant ships for the arrangement, management, supervision and review and continuous improvement for the purpose of ensuring and maintaining the fulfillment of all conformity with standards of safety and the prevention of pollution required in related international provisions related with the management of safety and prevention of pollution.

Letter h

What is meant by "Management of Ship's Security" is an entirety of system, procedure and mechanism in writing and documented for sea transportation companies and merchant ships for the arrangement, management, supervision and review and continuous improvement for the purpose of ensuring and maintaining the fulfillment of all conformity with the readiness of ship to face, defend, and maintain ship's security in the context of increasing ship's safety.

Sub-Article (3)

Self-explanatory

Article 118

Self-explanatory

Article 119

Sub-Article (1)

What is meant by "international requirements" are provisions issued by International Authority of Lighthouse Association (IALA) regulating among others standardization as well as the adequacy and reliability of Shipping Navigation Aid Means, International Telecommunication Union (ITU), and International Maritime Pilotage Association (IMPA).

Sub-Article (2)

Self-explanatory

Article 120

Self-explanatory

Article 121

What is meant by "Port Facility Security System" is security procedure at port facilities at all security levels.

Letter a

Self-explanatory

Letter b

Port facilities security means and infra-structure cover security fence, guard posts, monitoring equipment, detector equipment, communication equipment and lights.

Letter c

What is meant by "Communication System" is procedure to communicate within port facilities, communication

between port security coordinator with port facilities and with related agencies.

Letter d

What is meant by "Security Personnel" are personnel having the knowledge and capability to exercise security in accordance with security management (International Ship and Port Facility Security Code/ISPS Code).

Article 122 and Article 123

Self-explanatory

Article 124

Sub-Article (1)

What is meant by "procurement of ship" is the activity to bring ships from abroad, both used ship and new ship to be registered in List of Indonesian Ships.

What is meant by "ship building" is the building of new ships both domestically and overseas directly flying Indonesian flag.

What is meant by "ship working" is the stage of work and activities when renovation, repairs and maintenance of ship is performed.

What is meant by "ship equipment" are parts included in navigation equipment, aid means, smoke detectors and fire extinguishers, ship radio and electronics, nautical maps and publications, and meteorology observation ancillaries for ships with certain measurement and certain sailing areas.

Sub-Article (2)

Self-explanatory

Article 125

Sub-Article (1)

Self-explanatory

Sub-Article (2)

What is meant by "renovation" is the renovation of construction requiring the validation of drawing and calculation of the construction due to the change of function, stability, structure, and dimension of ship.

Sub-Article (3)

Self-explanatory

Article 126

Sub-Article (1)

Safety certificates are provided to all types of ships having a measurement of GT 7 (seven Gross Tonnages) or more except:

- a. Battle ships;
- b. State ships; and
- c. Ships used for sport requirements.

Sub-Article (2)

Letter a

Types of passenger ship certificates are among others:

1. Passenger Ship Safety Certificate (covering safety of ship construction, equipment, and radio); and
2. Exemption Certificate (certificate allowing the exemption from several requirements that had to be met).

Letter b

Types of cargo ship certificate according to SOLAS 1974 are among others:

1. Cargo Ship Safety Certificate;
2. Cargo Ship Construction Safety Certificate;
3. Cargo Ship Equipment Safety Certificate;
4. Cargo Ship Radio Safety Certificate; and
5. Exemption Certificate (certificate allowing the exemption from several requirements that had to be met).

Letter c

Certificate of feasibility and manning of fish catching ships as proof of the fulfillment of requirements of ship safety and manning.

Sub-Article (3) and Sub-Article (4)

Self-explanatory

Sub-Article (5)

What is meant by "government officials" are ship safety investigator officials having the qualification and expertise in the field of safety commissioned by the Minister.

Article 127 thru Article 129

Self-explanatory

Article 130

Sub-Article (1)

Self explanatory

Sub-Article (2)

What is meant by "at any time" is beyond the determined periods for periodic maintenance due to necessities.

Sub-Article (3)

What is meant by "certain condition" is the provision of dispensation on ship safety requirements in the following conditions:

- a. Ship undergoing trial shipping;
- b. Ships used to tackle disasters;
- c. Ships sailing in bad weather and/or encountering mishaps causing damages or losses to ship's equipment;
- d. Ships used to carry out search and rescue activities;
- e. Ships sailing for docking purpose; or

f. Ships where the type, category, measurement, construction, or base material, by considering its shipping area, will not be efficient if certain safety equipment or certain communication equipment should be installed. Example: A ship where the type, category, measurement, construction, or base material must meet requirements in accordance with international provisions, however since its area of shipping is local and close, therefore requirements of its safety equipment may be adjusted with necessities.

Article 131 thru 137

Self-explanatory

Article 138

Sub-Article (1) thru Sub-Article (3)

Self-explanatory

Sub-Article (4)

What is meant by "ship's operator" is any person based on certain rights and the ship's owner operating a ship.

Article 139

What is meant by "deviating from route" is an action performed by a Captain for the purpose of saving in the event of weather disturbances such as tropical cyclone or hurricane.

What is meant by "other required actions" are actions that should be taken by a Captain to give help on hearing a distress signal from other ships stating as being in "danger and requiring immediate assistance" (Conventions on the International Regulation for Preventing Collisions at Sea, 1972/COLREGs).

Article 140

Sub-Article (1) thru Sub-Article (3)

Self-explanatory

Sub-Article (4)

What is meant by "Ship Council" is a council formed on board a ship consisting of ship's officers with the duty to assist and provide recommendation to a temporary replacement of a Captain to exercise his authority.

Sub-Article (5)

Self-explanatory

Article 141

Sub-Article (1)

What is meant by "log book" are notes containing information on various matter related with the operations of ship.

Sub-Article (2)

Self-explanatory

Sub-Article (3)

What is meant by "can be used as evidence" is that the ship log book, being an authentic note, can be used to prove an event or the presence of a person on board.

Article 142

Self-explanatory

Article 143

Sub-Article (1)

Letter a thru Letter e

Self-explanatory

Letter f

What is meant by "indecenty" are among others:

- a. influencing other people to strike, to be late for guard duty and/or to refuse orders of superiors;
- b. uttering words that are humiliating, slandering, and/or impolite.

Sub-Article (2)

Self-explanatory

Article 144 thru Article 154

Self-explanatory

Article 155

Sub-Article (1)

Self-explanatory

Sub-Article (2)

Letter a

What is meant by "domestic measuring method" is a measuring method stipulated by the Indonesian Government implemented on Indonesian ships not subject to provisions of International Conventions concerning Ship's Measurement (International Conventions On Tonnage Measurement of Ship 1969/TMS 1969).

Letter b

What is meant by "international measuring method" is a measuring method stipulated by the Indonesian Government based on International Conventions concerning Ship's Measurement (International Conventions On Tonnage Measurement of Ship 1969/TMS 1969).

Letter c

What is meant by "special measuring method" is a measuring method used for measuring and determining the tonnage of a ship going to pass through a certain canal, among others Suez Canal measuring method and Panama Canal measuring method.

Sub-Article (3) Sub-Article (4)

Self-explanatory

Article 156

Sub-Article (1)

Self-explanatory

Sub-Article (2)

What is meant by "Brand Sign" is a series of letters and numbers consisting of GT, numbers showing the gross tonnage, number of measurement letter, and measurement code from the port issuing the measurement letter.

Example:

GT 123 No 45/Ba

GT : Abbreviation of Gross Tonnage

123 : Gross tonnage of ship

No. : Abbreviation of number

45 : number of measurement letter

Ba : measurement code from the port issuing the measurement letter (Ba is the measurement code of Tanjung Priok Harbor).

Article 157

Self-explanatory

Article 158

Sub-Article (1) and Sub-Article (2)

Self-explanatory

Sub-Article (3)

What is meant by "Ship's Registration" is the registration of ownership right on a ship in accordance with provisions of legislations.

Sub-Article (4)

What is meant by "gross deed of registration" is an official copy of the minute (original deed of registration)

Proof of ownership right on a ship is a document of ownership submitted by a ship owner at the time of registering the ship, in the form of among others:

1. For newly built ships
 - a) ship building contract
 - b) report of ship hand-over; and
 - c) statement letter from the dock.
2. For ships that had been registered in another country, among others:
 - a) Bill of sale; and
 - b) Protocol of delivery and acceptance.

Sub-Article (5)

What is meant by "Registration Sign" is a series of letters and numbers consisting of year of registration, measurement code of place of registration, consecutive number of registration deed, and code of ship category.

Example:

2008 Pst No 499991L

2008 : Year of ship registration

Pst : Code of place of registration

No. : Number

4999 : Number of registration deed

L : Code of ship category (L is category code for marine ship, N is category code for fishing ship, P is category code for interior ships, i.e. ships sailing on river and lake).

Article 159 thru Article 162

Self-explanatory

Article 163

Sub-Article (1)

Self-explanatory

Sub-Article (2)

What is meant by "Marine Letter"Big Pass", and "Small Pass" are Nationality Sign Letter of Ships granted as legalization to fly Indonesian flag as ship nationality flag including fish-catching ships.

Sub-Article (3)

What is meant by "river and lake waters" are rivers, lakes, dams, canals, and marshes.

Article 164 and Article 165

Self-explanatory

Article 166

Sub-Article (1)

What is meant by "identity of ship" is the name of ship and the port of the place where the ship is registered stated on the ship hull, nationality flag flying at the ship stern in accordance with Nationality Sign Letter given by the Government of the country concerned.

Sub-Article (2)

Self-explanatory

Article 167 and Article 168

Self-explanatory

Article 169

Sub-Article (1)

What is meant by "ship of certain type and measurement" are cargo ships with a measurement of GT 500 (five hundred Gross Tonnage) or more and passengers ships of all measurements performing international sailing, whereas for ships sailing domestically, its type and measurement shall be stipulated separately.

Sub-Article (2) and Sub-Article (3)

Self-explanatory

Sub-Article (4)

What is meant by "institution granted the authority by the Government" are classification agencies acknowledged by the Government.

Sub-Article (5) and Sub-Article (6)

Self-explanatory

Article 170

Sub-Article (1)

What is meant by "certain measurement" are cargo ships with a measurement of GT 500 (five hundred Gross Tonnage) or more and passengers ships of all measurements performing international sailing, whereas for ships sailing domestically, its type and measurement shall be stipulated separately.

Sub-Article (2)

Self-explanatory

Sub-Article (3)

For ships sailing domestically, regulation on its certificate shall be stipulated separately.

Sub-Article (4) thru Sub-Article (6)

Self-explanatory

Article 171

Self-explanatory

Article 172

Sub-Article (1)

Self-explanatory

Sub-Article (2)

What is meant by "other certain interests" are among others the indication of state territory at outermost islands among others in the form of lighthouses.

Sub-Article (3)

What is meant by "provisions of legislations" is in accordance with national provisions and by observing international provisions.

The national provision namely Indonesia National Standard related with Floating System "navigation standard referring to European Standard)".

International provisions are:

- 1) United Nations Conventions on the Law of the Sea (UNCLOS) 82) related with Sea Lanes of the Indonesian Archipelago (ALKI);
- 2) Safety of Life at Sea (SOLAS) related with Safety of Navigation - Chapter IV;
- 3) Provisions issued by International Maritime Organization (IMO) related with Safety of Navigation;
- 4) Provisions Issued by International Hydrography Organization (IHO) related with hydrography; and
- 5) Provisions issued by International Association Marine Aids to Navigation and Lighthouse Authorities (IALA) related with recommendation on Shipping Navigation Aid Means.

Sub-Article (4)

What is meant by "in certain conditions" is if Shipping Navigation Aid Means are used to support activities not for the interest of the public, among others oil platform, dredging, salvage, and special terminal in certain locations.

Sub-Article (5) Sub-Article (6)

Self-explanatory

Article 173 and Article 174

Self-explanatory

Article 175

Sub-Article (1)

What is meant by "obstacles" are conditions which can disturb or obstruct transportation traffic on waters such as ships' bodies in shipping lanes.

Sub-Article (2) and Sub-Article (3)

Self-explanatory

Article 176

Sub-Article (1)

Self-explanatory

Sub-Article (2)

What is meant by "certain ships" are warships, state ships, hospital ships, shipd entering a special port for the purpose of asking help or ships providing help to human lives, ships undergoing trial shipping, and private ships performing governmental duties.

Article 177

Self-explanatory

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Article 178

Sub-Article (1)

Self-explanatory

Sub-Article (2)

What is meant by "provisions of legislations" is in accordance with national provisions and observing international provisions in the field of telecommunication, among others:

1. National provisions namely Law No. 36 Year 1999 concerning Telecommunication; and
2. International provisions, namely International Telecommunication Union (ITU) which had been ratified lastly wit Presidential Decree No. 80 Year 2004 concerning Ratification of Instruments Amending the Constitution and the Conventions of the International Telecommunication Union, Marrakesh, 2002 and International Maritime Organization (IMO)

Sub-Article (3) thru Sub-Article (5)

Self-explanatory

Article 179 and Article 180

Self-explanatory

Article 181

Sub-Article (1)

What is meant by "obstacles" are among others the presence of frequency disturbances where its use is not in accordance with its allotment.

Sub-Article (2) and Sub-Article (3)

Self-explanatory

Article 182

Sub-Article (1) and Sub-Article (2)

Self-explanatory

Article 183.....

Article 183

Sub-Article (1)

What is meant by "distress communication" is a communication indicating that a station or mobile unit or other person is in grave danger and need immediate help (MAYDAY MAYDAY MAYDAY).

What is meant by "immediate communication" is a communication containing information to ask for help on sick person aboard a ship or information to ask for help on man over-board (PAN PAN PAN).

What is meant by "safety communication" is communication containing information on:

- a. the movement of positions of Shipping Navigation Aid Means;
- b. Shipping Navigation Aid Means being extinguished;
- c. Presence of oil drilling at a position in the shipping lane;
- d. The rising of a coral reef;
- e. The presence of a floating object endangering shipping;
- f. Support for Search and Rescue Operations; or
- g. Report of the presence of a phantom ship (SECURITY, SECURITY, SECURITY)

What is meant by "standard time transmission" is a transmission of time signal for ships, coast stations, and other parties in need of information on time and for chronometer adjustments.

Sub-Article (2)

Self-explanatory

Article 184 and Article 185

Self-explanatory

Article 186

Sub-Article (1)

Letter a and letter b

Self-explanatory

Letter c.

What is meant by "certain ship crew" are nautical officers responsible on weather condition.

Sub-Article (2)

Self-explanatory

Article 187

Sub-Article (1) thru Sub-Article (4)

Self-explanatory

Article 188

Sub-Article (1)

Self-explanatory

Sub-Article (2)

What is meant by "a portion of the performance of shipping lane" is the lane to the special terminal

Sub-Article (3)

Self-explanatory

Article 189

Sub-Article (1)

What is meant by "other interests" are among others port construction, wave-breaker, mining, and other building requiring dredging works likely to cause disturbances on shipping lane.

Sub-Article (2)

Self-explanatory

Article 190 thru Article 192

Self-explanatory

Article 193

Sub-Article (1)

Self-explanatory

Sub-Article(2)

What is meant by "certain areas" are among others the waters of the Sea Lane of the Indonesian Archipelago (ALKI), Traffic Separation Scheme (TSS) lane, Ship to Ship (STS) area, waters stipulated as Ship Reporting System (SRS).

What is meant by "all information" are information related with the safety and security of shipping.

Article 194

Sub-Article (1)

What is meant by "continuous, direct and promptly" is sailing from the open sea crossing Indonesian waters and directly to the other open sea in accordance with Law No. 17 Year 1985 concerning the ratification of United Nations Conventions on the Law of the Sea 1982.

Sub-Article (2)

Self-explanatory

Sub-Article (3)

What is meant by "emergency" is a ship encountering mishaps or giving to a person or ship encountering mishaps Self-explanatory

Sub-Article (4) and Sub-Article (5)

Self-explanatory

Article 195

Letter a thru Letter d

Self-explanatory

Letter e

What is meant by "provide guarantee" is the obligation of the owner or operator to possess insurance assurance or to place an amount of money as security to reimburse the dismantling of building or installations not used any more by the owner or operator.

Article 196 and Article 197

Self-explanatory

Article 198

Sub-Article (1)

What is meant by "pilot obligatory waters" is a water area which due to its condition is obliged to perform piloting for sh500g.

What is meant by "pilot extraordinary obligatory waters" is a water area which due to its condition is not obliged to perform piloting, but if a Captain requires, may submit a request for piloting services.

Sub-Article (2)

Self-explanatory

Sub-Article (3)

Delegation of piloting to Bupl is made in ports exploited commercially or special trms.

What is meant by "can be delegated" is to meet requirements, according to terms, and provisions of legislations and revocable if the performance of duties are not executed properly.

Sub-Article (4) thru Sub-Article (6)

Self-explanatory

Article 199 and Article 206

Self-explanatory

Article 207**Sub-Article (1)**

The exercise of lfect in the field of shipping safety and security by Harbor master is exercised within the Work Environment Area and Interest Environment Area.

Sub-Article (2)

Self-explanatory

Sub-Article (3)

Competence requirements is also applicable for Harbor master in fishing ports as regulated in Law No. 31 Year 2004 concerning Fishing.

Article 208

Self-explanatory

Article 209**Letter a and Letter b**

Self-explanatory

Letter c

What is meant by "issuance of approval for ship activities in port" are among others issuing permits for welding activities, tank cleaning, removal of docking, prohibiting or permitting people to get on board, and transfer of loading of cargo.

Letter d thru Letter h

Self-explanatory

Article 210 and Article 211

Self-explanatory

Article 212**Sub-Article (1)**

What is meant by "international provisions" is

concerning safety of ship and port facilities (International Ship and Port Facilities Security Code / ISPS Code).

What is meant by "Harbor master to act as Port Security Committee" is that the Harbor master on behalf of the Government as Designated Authority (DA) has the authority to determine security level in a port.

Sub-Article (2)

What is meant by "may ask for assistance" is that a Harbor master has the right to ask for support and assistance if required, among others if criminal acts occur.

Sub-Article (3) and Sub-Article (4)

Self-explanatory

Article 213**Sub-Article (1)**

Self-explanatory

Sub-Article (2)

What is meant by "ship letters and documents" are among others Measurement Letter, Ship Nationality Letter, Safety Certificate, Line of Loading Certificate, Ship Manning Certificate, and load documents.

Sub-Article (3) and Sub-Article (4)

Self-explanatory

Article 214

What is meant by "ship condition" is information on the general condition of ship and its cargo.

Article 215

What is meant by "directive and order of Harbor master" are among others rejecting the arrival of ship, ordering the removal of ship, and determining the place to anchor.

Article 216 and Article 217

Self-explanatory

Article 218

Sub-Article (1)

What is meant by "in certain condition" is that if a Harbor master receives a report as of an indication that a ship does not meet requirements on seaworthiness and security.

Sub-Article (2)

What is meant by "provisions of legislations" cover international conventions regulating on port state control.

Sub-Article (3)

Self-explanatory

Article 219

Sub-Article (1)

Sailing Approval Letter which internationally is referred to as port clearance shall be issued after the fulfillment of requirements on seaworthiness and other obligation.

Sub-Article (2) thru Sub-Article (5)

Self-explanatory

Article 220

Self-explanatory

Article 221

Sub-Article (1) and Sub-Article (2)

Self-explanatory

Sub-Article (3)

What is meant by "can" is if from the result of a preliminary investigation there are information and/or

evidences of initial proof on the fault or negligence made by the Captain and/or ship officers.

Article 222

Self-explanatory

Article 223

Sub-Article (1)

What is meant by "maritime claim" according to provisions on arrest of ships arises due to:

- a. losses or damages caused by the operations of ship;
- b. loss of life or serious injuries occurring on land or waters or sea caused by the operations of ship;
- c. damages to the environment, ship, or cargo due to salvage operations activities or agreement on salvage;
- d. damages or damage threats to the environment, coast line or other interests caused by ships, including costs required to take preventive steps on damages to recover the environment, his ship, or its cargo, as well as to recover the environment due to inflicted damages;
- e. costs or expenditures related with the lifting, removal, repair of ships including costs of saving ships and its crews;
- f. costs for the use or operations or chartering ships set forth in a charter agreement (charter party), etc;
- g. costs for transporting goods or passengers on board set forth in a charter agreement, etc;
- h. loss or damages of goods including boxes or suit-cases transported on the ship;
- i. loss or damages to ship or goods due to accident at sea (general average);
- j. towage costs;

- k. ~~piloting costs;~~
- l. costs of goods, ancillaries, ship requirements including containers provided to serve and for ship's requirements for the operations, handling, saving or repair of ships;
- m. costs for the construction, re-construction or re-conditioning, repair, change or equip ship's requirements;
- n. costs of port, canal, dock, harbor, shipping lane, and/or other retributions;
- o. salary and other indebted payment to ship Captain, officers and crews and others employed on board including costs for re-patriation, social insurance for their sake;
- p. disbursements spent for the sake of ship on behalf of owner;
- q. insurance polish (including "mutual insurance call") for ship that must be paid by ship owner or charterer without crew or bare boat (demise charterer);
- r. commission, expenses, broker or agency which must be paid in connection with ship on behalf of owner of ship without crew (demise charterer);
- s. costs for dispute in connection with status of ship ownership;
- t. costs for dispute arising between co-owner related with the operations and gains or yield of ship tambang;
- u. costs of mortgage or other encumbrances having the same nature on ship;
- v. costs for dispute arising from ship sale agreement.
- Sub-Article (2)
Self-explanatory
- Article 224
Sub-Article (1)
What is meant by "seaman document" are documents on the ~~identity of seamen and marine work agreement~~. The seaman identity document consists of Seaman Book and Seaman Identity Card.
What is meant by "registered" is entered into a book on list of ship crew working on a ship according to his position and the date of on-off legalized by the Harbor master.
- Article 225 thru Article 229
Self-explanatory
- Article 230
Sub-Article (1)
What is meant by "responsible party on other activity units on water" are among others management of oil drilling and oil accommodating facilities on waters.
- Sub-Article (2) and Sub-Article (3)
Self-explanatory
- Sub-Article (4)
What is meant by "institution having the authority for further handling" is the nation-wide institution handling the control on pollution.
- Article 231 and Article 232
Self-explanatory
- Article 233
Sub-Article (1) and Sub-Article (2)
Self-explanatory
- Sub-Article (3)
What is meant by "hazardous and toxic wastes" also includes radioactive wastes.

Article 234 thru Article 236

Self-explanatory

Article 237

Sub-Article (1)

What is meant by "wastes" among others can be in the form of oil waste, chemical substance, hazardous and toxic substance, garbage and dirt.

Sub-Article (2)

Self-explanatory

Sub-Article (3)

Self-explanatory

Article 238

Self-explanatory

Article 239

Sub-Article (1)

What is meant by "certain locations" is that waste disposal shall not be made in shipping lanes, protection zones, nature reservation zones, national parks, nature tourism parks, cultural and science preservation zones, coast lines, coral reef areas, mangrove zones, fishery and cultivation areas, settlement areas, and areas sensitive to pollution.

What is meant by "waste disposal" also includes ship skeleton.

Sub-Article (2)

Self-explanatory

Article 240

Self-explanatory

Article 241

Sub-Article (1)

What is meant by "trimming of ship" is the activity

of cutting and destroying ships not used any more, in a safe and environmentally sound manner.

Sub-Article (2)

Self-explanatory

Article 242 and Article 243

Self-explanatory

Article 244

Sub-Article (1)

What is meant by "danger" are threats caused by external and internal factors (of ship).

Sub-Article (2)

Self-explanatory

Sub-Article (3)

What is meant by "person" also includes people in lighthouses that are in danger.

What is meant by "other parties" are among others captains of other ships present around the danger location, coast radio stations, and the nearest official having the authority to follow-up an accident process.

Sub-Article (4)

Reporting by a captain shall be made on any danger on ship safety both domestically and internationally, both which had caused and likely to cause damages to lanes or buildings on water which can disturb shipping safety or not.

What is meant by "reporting" is to send news of danger to ship safety by telecommunication system, among others Coast Radio Station, Vessel Traffic Information System (VTIS), semaphore, morse and other means which can be used to send message or to attract the attention of other parties.

Article 245 and Article 246

Self-explanatory

Article 247

What is meant by "other parties" are among others captains of other ships present around the danger location, coast radio stations, and the nearest official having the authority to follow-up an accident process.

Article 248

What is meant by "reporting" is to send news of danger to ship safety by telecommunication system, among others Coast Radio Station, Vessel Traffic Information System (VTIS), semaphore, morse and other means which can be used to send message or to attract the attention of other parties.

Article 249

What is meant by "proved otherwise" is that based on evidencing, efforts had been taken and obligation had been accomplished based on provisions of legislations.

Article 250 and Article 255

Self-explanatory

Article 256

Sub-Article (1)

What is meant by "National Transportation Safety Committee" is an institution granted the authority to perform investigations on causes of accidents.

Sub-Article (2)

Self-explanatory

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Sub-Article (3)

Result of investigation executed by the National Transportation Safety Committee shall be submitted to the Minister accompanied with recommendation to make correction on policies related with transportation system, means and infrastructures, as well as human resources.

Article 257 thru Article 268

Self-explanatory

Article 269

Sub-Article (1)

Shipping information system has the purpose to provide information in the field of water transportation and port affairs as well as the assurance of shipping safety and security, and to provide marine environment protection.

Sub-Article (2) and Sub-Article (3)

Self-explanatory

Article 270 thru Article 281

Self-explanatory

Article 282

Sub-Article (1)

What is meant by "other investigators" are investigators in accordance with provisions of legislations, among others officers of the Indonesian National Navy.

Sub-Article (2)

Self-explanatory

Article 283

Sub-Article (1)

Self-explanatory

Sub-Article (2)

Sub-Article (2)

What is meant by "taking other actions according to accountable law" is that in the accomplishment of duty, investigators are obliged to uphold prevailing laws.

Sub-Article (3)

Self-explanatory

Article 284 thru Article 338

Self-explanatory

Article 339

Sub-Article (1)

What is meant by "permit" is a permit to build facilities issued by the regional government and a permit on operations subject to this Law.

Sub-Article (2)

Self-explanatory

Article 340 thru Article 343

Self-explanatory

Article 344

Sub-Article (1)

Self-explanatory

Sub-Article (2)

Stipulation of the three (3) years term in this provision is meant to provide sufficient time to the Government to plan the development of ports and State Owned Business Enterprises. For the purpose of such development, on the order of the Minister, the following steps shall be performed:

- a. Evaluation of assets of the State Owned Business Enterprise operating port business; and
- b. To perform overall audit on the assets of the State Owned Business Enterprise operating port business.

Sub-Article (3)

What is meant by "remain to be performed by State Owned Business Enterprises" is that the State Owned Business Enterprises established based on Government Regulation No. 56 Year 1991, Government Regulation No. 57

Year 1991, Government Regulation No. 58 Year 1991 and Government Regulation No. 59 Year 1991, shall still perform business activities in ports covering:

- a. activities regulated in Article 90 Sub-Article (1), Sub-Article (2), Sub-Article (3) and Sub-Article (4) of this Law;
- b. provisions of port pools according to its allotment based on delegation from the Government and provisions of legislations;
- c. performance of piloting services based on delegation from the Government and provisions of legislations;
- d. provision and exploitation of land according to requirements based on delegation from the Government and provisions of legislations in the field of land affairs.

Article 345 thru Article 349

Self-explanatory

Article 350

What is meant by "must be stipulated" is stipulating several main ports as international hub including evaluating the international hub ports that had been stipulated before the enactment of this Law.

Article 351

Sub-Article (1)

What is meant by "evaluated and conformed" includes the presence of fish ports within the Work Environment Area and Interest Environment Area of the port.

Sub-Article (2)

Self-explanatory

Article 352 thru Article 355

Self-explanatory

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