



## Law Enforcement Against Ship Shipping Which Is Not Seaworthy at Cirebon Port

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**Abstract.** A Sailing Approval Letter (SPB) is an important requirement for seaworthy shipping or whether or not a ship can sail. Ships that are incomplete or without the letter have violated the law or can be said to be a criminal offense in the shipping sector. The problem is how to enforce the law against ships that are not seaworthy and what obstacles exist at Cirebon II Port. The method used is an empirical juridical approach, looking at the law applicable in the community and people's behavior, especially in the field of shipping, in accordance with existing rules. This type of qualitative research, analytical descriptive, looks at the facts in the field. Data is taken from in-depth interviews with relevant stakeholders. This study found that law enforcement was not optimal because only the ship was detained while the captain and ship owner were not. The obstacle was due to PPNS's limited personnel; the captain fled, and the ship was unknown to its owner. PPNS in the enforcement of shipping laws must be sufficient, and the infrastructure facilities must be fulfilled; in addition, data collection on shipping ship owners and strict sanctions are needed for skippers and shipping ship owners.

**Keywords:** Ship, Shipping, Skipper, sanctions, Law enforcement

### INTRODUCTION

Indonesia is a water country, where the ocean is wider than the land; two-thirds of the country is ocean. There is a need for sea transportation, which continues to experience significant incidents of ship and seaworthiness accidents. This is the result of human negligence regarding the safety protocols that have been set. In addition, there is a significant lack of emphasis on promoting safety awareness in transportation. This has implications for neglect of losses due to accidents, both material and fatal.

Sea transportation has always been an option for the community, especially in moving the wheels of the economy. That's because sea transportation services offer transportation services for passengers or transport a trade commodity in large quantities and over long distances, and also offer relatively cheap costs compared to land or air transportation. Ships are the spearhead to earn

income because one of the purposes of shipping is to obtain the greatest profit from transportation services; for the progress of a company, the company must make a profit, so the income must be greater than the expenses. Thus, operating costs should be kept to a minimum or used to economic principles. Spending the smallest amount of money gets the greatest results.(Darmawati, 2016)

Revenue and operating costs in a company in the field of sea shipping are greatly influenced by the condition of the ship; for example, ship maintenance that is carried out properly will indirectly increase the number of sailing days of the ship. The condition of the ship is very important in ensuring the arrival of passengers or goods carried to reach the destination safely or in good condition. Even though the ships operated are old, they are still required to be in seaworthy conditions so as not to endanger the ship itself, the crew, the cargo it carries, as well as the surrounding environment if what is brought is something that can damage the marine environment, for example transporting fuel.

To start the journey, the ship must meet several requirements. In particular, one must obtain permission from Syahbandar, who is responsible for overseeing the port. Syahbandar will assess the ship's airworthiness and verify its compliance with safety regulations, including the capacity and availability of safety facilities. (See Article 219, Law No. 17 of 2008 concerning Shipping)

It is important to pay attention to the enactment of Law Number 17 of 2008 concerning Shipping, which covers a number of topics, such as travel in ports and waters, shipping security and safety, and maintaining the maritime environment. Shipping is a crucial component of the national transportation system and needs to be developed to ensure a successful and effective transportation system. Additionally, shipping plays a significant role in creating a stable and evolving national distribution pattern. One example of this is maritime transportation, where the law has specifically established licensing standards, shipworthiness, and regulatory oversight to prioritize passenger safety, and it is mandatory to inform stakeholders about transportation (Mudiyanto, 2019).

Even though it has been regulated in Law Number 17 of 2008 concerning Shipping, the reality is that there are still entrepreneurs in the field of shipping services who ignore safety and security at sea by not looking at the condition of the ship that will sail or seaworthiness. For example, the case of the Mongolian-flagged MT Bizen Maru GT 238 ship, the owner of PT Segitiga Group, which was caught in the waters of Balongan Indramayu at coordinates 06 carrying a cargo of dirty condensate oil  $\pm$  60 M/t without being equipped with a cargo manifest and it was Farahdita

found that the ship did not install a ship registration sign in addition, without being equipped or having a Sailing Approval Letter (SPB) which had previously sailed from Florida island (Merak-Banten) with the destination of Balongan Indramayu was stopped by KN patrol boat officers. P588 by making a summons via VHF Chanel 16 and 09 radios, because there was no answer so the ship was stopped. And until now the case has not been completed because the skipper, Hiswan, escaped. (Heryana, 2024)

This is still the case, of course, the Cirebon Port Authority must take action. So that the problems to be studied are:

1. How is law enforcement against ships that are not seaworthy?
2. What are the obstacles to law enforcement of criminal acts in seaworthy shipping?

## LITERATURE REVIEW

The state of a ship that satisfies the requirements for ship safety, prevention of ship-related pollution of water, manning, loading lines, loading, crew welfare and passenger health, ship legal status, safety management, prevention of ship-related pollution, and ship safety management to sail in specific waters is known as ship seaworthiness. (Law No. 17 of 2008 concerning Shipping, Article 1 Number 33)

Government Regulation Number 51 of 2002 stipulates that all ships must fulfill the seaworthiness requirements, particularly in item 5 (paragraph 1). Ship safety, ship crewing, ship operation safety management, ship pollution avoidance, loading, and ship legal status are some of these requirements. According to the established regulations, paragraph 2 attests that the ship's certificate and/or ship papers demonstrate that it satisfies the seaworthiness requirements listed in paragraph 1.

The legal framework for ensuring the seaworthiness of ships can be categorized into two main categories: international regulations and national laws:

1. International Rules
  - a. Solas Convention 1974 and its amendments.
  - b. STCW Convention 1978/95 and its Amendments
  - c. ILO Conventions
  - d. TMS Convention 1969
  - e. Loadline Convention 1966

## 2. National Rules

- a. Law No. 17 of 2008 concerning Shipping
- b. PP. No. 51 of 2002 concerning Shipping
- c. PP. NO. 7 Year 2000 on Oceanography
- d. KEPMENHUB No. 18 of 1997 concerning Education, State Examinations and Seafaring Certification
- e. KEPMENHUB No. 43 of 2005 concerning Organization and Work Procedures of the Ministry of Transportation.

In terms of crew welfare and passenger health, the legal status of ships, safety management, pollution prevention, manning, loading lines, loading, and safety management of ships to sail in specific waters, the ship must operate in a way that complies with the regulations for sailing in those waters.

Ship safety is a problem both domestically and internationally. The Minister of Agriculture grants a safety certificate to a ship that satisfies ship safety regulations (article 126 paragraph 1 of Law 17/2008). As mentioned in paragraph (1), ships that have earned a certificate are subject to ongoing monitoring until they are no longer in use. Only authorized and competent government authorities, specifically Syahbandar, can conduct the examination, testing, and observation.

In accordance with article 323 of Law No. 17 of 2008 concerning Shipping, the captain faces a maximum prison sentence of five (five) years and a maximum fine of Rp. 600,000,000 (six hundred million rupiah). The syahbandar is a government official at the port appointed by the minister, and he or she has the highest authority to carry out and supervise the fulfillment of the provisions of laws and regulations to ensure the safety and security of shipping. When the requirements are not met or the ship is not seaworthy, the syahbandar has the authority to enforce the law.

For ships that do not have or are incomplete seaworthiness requirements, it is categorized as a criminal offense in the shipping sector and can be subject to law enforcement. Law enforcement against shipping crimes, including special criminal laws. Because it is specifically regulated in Law No. 17 of 2008 concerning Shipping.

Law Enforcement is the process of applying the law carried out by the authorities, for example, PPNS KPLP in the shipping sector, in the community, and of course, the people related to shipping to ensure that the law is implemented and obeyed by citizens.

Farahdita

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| 211

## a. Research Methods

### 1. Type of Research

The type of research is qualitative, namely analyzing and describing phenomena and facts in the field regarding law enforcement against ships that are not seaworthy.

### 2. Approach methods

The approach method used is empirical judicial, legal research that starts from primary data obtained directly from the community or related stakeholders as the first source through interviews or direct involvement in the field. This research describes how the law applies in society; the community's behavior is not by the existing rules or the law that should be "das sollen" with the law that is actually "das sein."

### 3. Data Type

Source of Data Primary data, such as empirical facts about human behavior and its outcomes, are used in this study as research material. Verbal behavior, actual conduct, and behavior that is promoted in different behavioral outcomes or documents/archives. Secondary data is information gathered from literature studies, including primary legal materials, secondary legal materials, and non-legal materials. Primary data is information gathered directly from the research site, specifically through direct interviews and observation or direct field observation. (Sanusi, Irma Maulida, 2024; Peter Mahmud Marzuki)

Secondary data was obtained by documentation and tracing studies. literature related to seaworthiness in the field of shipping.

### 4. Data Collection Techniques

The data collection techniques carried out by the author are:

1. Field observation, which is direct observation at the research site about the problem raised in this case, is pre-research.
2. Interview, which is conducting interviews with respondents and informants to take important information about the problem.
3. Document collection, namely data in the Port Authority Office and Cirebon port authority that have relevance to the main problem used as the theme in this study.

### 5. Data Analysis

All data obtained in the research later, both primary and secondary data will be processed and analyzed based on the title and formulation of the problem so as to obtain an overview related to the problem. The analysis used is qualitative analysis, and the data is presented descriptively, namely explaining, describing, and describing in accordance with the subject matter.

## **DISCUSSION**

For the advantage of global maritime trade, Indonesia serves as a shipping route that links the Pacific and Indian oceans as well as the Asian and Australian continents. The biological and non-biological resources found in Indonesia's maritime region have a vast and varied potential. Because of its vast territory and strategic location on the equatorial crossing between the two oceans, the Indonesian Ocean offers a wealth of natural resources and a significant global role in all maritime dimensions. As a result, sea transportation becomes extremely important because it helps connect islands so that economic activity can proceed smoothly.

Furthermore, maritime transportation contributes to economic expansion. Through the mobility of people, goods, animals, and services, sea transportation can promote the national distribution pattern and drive development dynamics. However, the state must keep an eye on the role of transportation, particularly sea transportation, to ensure that its operations are carried out in a timely, orderly, clean, comfortable, and safe manner while safeguarding the interests of all parties involved. Given the significant and strategic role that sea transportation plays in controlling the lives of many people, the State, whose direction is carried out by the government as required by Law Number 17 of 2008 concerning Shipping, controls its existence. Therefore, it is necessary to develop its potential and increase its role as a link between regions, both national and international, including cross-border between close countries. It is used as a means to support, encourage, and move national development in an effort to improve the welfare of the people and become the glue of the Unitary State of the Republic of Indonesia.

Shipping crimes include incomplete or missing Sailing Approval Letters (SPBs). A shipping crime is any conduct carried out under specific conditions that the law has banned; as a result, it has occurred, and the offender may face physical or moral punishment. A number of behaviors that are illegal and repugnant in connection with shipping are considered criminal activities in the shipping industry.

As stated in Article 219, paragraph (1) of Law Number 17 of 2008 concerning Shipping, which states that:

"(1) Every ship sailing must have a Sailing Approval Letter issued by Syahbandar."

One of the most crucial documents is the Sailing Approval Letter (SPB), which must be issued by Syahbandar and held by any ship embarking on a voyage, whether it is to a domestic port or a foreign one (international shipping). Despite this, Permenhub PM.82 of 2014 concerning Procedures for Issuing Sailing Approval Letters regulates the arrangement of the Sailing Approval Letter (SPB), not the Sailing Agreement Letter (SPB).

The Sailing Approval Letter (SPB) is authentic evidence that:

1. The ship has been inspected.
2. Meet the requirements of the ship's ocean intelligence.
3. fulfill obligations in other shipping fields.

To receive a Sailing Approval Letter (SPB), a ship must be seaworthy and meet additional requirements, such as paying for port services and providing supervision services related to shipping safety and security that are relevant to the shipping industry. Additional evidence of obligations includes:

1. Proof of payment for port services
2. Proof of payment for navigation services
3. Customs Clearance
4. Immigration Clearance
5. Quarantine Clearance

As stated in Law Number 17 of 2008 concerning Shipping, a skipper who sails without a Sailing Approval Letter issued by Syahbandar has violated article 323 and faces a maximum sentence of five (five) years in prison and a maximum fine of Rp 600,000.00 (six hundred million rupiah). In practice, the consequences of shipping violations without a Sailing Approval Letter include the ship's detention and the freezing of permits or certificates so that it cannot operate for a predetermined period.

The implementation of shipping as a system can benefit all citizens of the country and the State by fostering and developing the maritime spirit. Prioritizing environmental sustainability,

public interest, coordination between the federal and regional governments, and state defense will accommodate all interests related to sea transportation.

Criminal provisions in the field of shipping provide guarantees for the implementation of safe and comfortable sea transportation to encourage the growth and development of sea transportation, which ultimately supports economic growth so that it cannot be an obstacle to the implementation of sea transportation or shipping to serve the mobility of people, goods and services that connect economic activities between islands and international relations. So that when there is a violation of the law, law enforcement is carried out, such as in a case handled by PPNS KPLP Pelabuhan II Cirebon.

Hiswan is the Captain of the MT ship. BIZEN MARU GT. 238 Mongolian flag, the owner of PT. GROUP TRIANGLE, on Thursday, March 17, 2016, at around 09.30 WIB or at least at a time of the month and year and located in the waters of Balongan Indramayu at coordinates 06°.13'.324" LS/ 108°.26'.101"E. Caught by the KN patrol boat. P 588 which was carrying out a shipping safety and security surveillance operation in the waters of Indramayu and its surroundings when it was detected by the KN patrol boat. P588 then made a call via VHF radio. Chanel 16 and 09 had no answer so we decided to do, stop and inspect the MT ship. BIZEN MARU, Mongolian flag, owner of PT. GROUP TRIANGLE at coordinates 06°.13'.324" LS/ 108°.26'.101"E. Before having sailed from Frorida Island (Merak – Banten) to Balongan Indramayu Port without being equipped or having a Sailing Approval Letter (SPB) issued by the local Syahbandar as well as MT ship letters/documents. BIZEN MARU which has expired since February 2014 and carried a cargo of dirty condensate oil of ± 60 M/t without being equipped with a cargo manifest and was found to be an MT ship. BIZEN MARU does not install registration signs on its ships.

This is the material for the KN Patrol Ship Inspection Report Results. P 588 and Ship Inspection Report number: UM.101/7/02/UPP. IM-16 dated March 17, 2016, which was made by the commander of the KN patrol boat. P 588 at the Indramayu Class III Port Operator Unit Office and then the MT. BIZEN MARU in Ad-Hoc to the Syahbandar Port Pier and Cirebon Class II Authority to be able to process further.because the port of Indramayu does not have a pier to dock the ship and does not have a Civil Servant Investigator (PPNS), but in the investigation the captain of the ship escaped and until now the ship has not been admitted to its ownership based on the recognition of the captain of the ship is owned by PT. SETIGA GROUP is domiciled in Batam, but after checking that the company does not exist and a search for the captain of the ship has been carried out on the Farahdita

residence in Palopo Sulaswesi, but the captain of the ship has not been found so the case has not been solved until now.

So that in carrying out law enforcement by PPNS KPLP experienced obstacles, namely:

1. The skipper as the perpetrator of the shipping crime cannot be processed because he escapes,
2. Ownership of MT Ships. BIZEN MARU PT. GROUP TRIANGLE is not mangakui and its existence is also unknown.
3. Personnel from PPNS at KPLP are limited, so until now the case cannot be enforced.

Laws and also laws are made to be implemented, so if laws and regulations can no longer be implemented or never implemented, then the law can no longer be said to be a law. Law can be defined as constitutional in the sense that the law is actually implemented. Law in the form of legal rules contains actions that must be carried out, which is in the form of law enforcement. Law enforcement will always involve human beings in it and thus will involve human behavior itself, because law enforcers themselves come from human beings, laws will not be upheld by themselves. This means that the law will not be able to realize its own promises and will contained in the legal regulations themselves.<sup>1</sup>

## CONCLUSION

1. Law enforcement carried out by PPNS at Port II Cirebon is not optimal because it can only hold MT ships. BIZEN MARU, not to the captain and owner of the ship
2. Obstacles in law enforcement i.e., the skipper fleeing and the ownership of the ship is unknown until now. In addition, PPNS personnel are limited and the cost is high if chasing the skipper who escapes.

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