

REGULATION OF THE MAKASSAR STRAIT USE AS A WORLD STRATEGIC ROUTE

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Abstract

The world sea lanes of communication passes through seven straits which are politically and economically very strategic because they involve the survival of a number of countries where four of these waters are within Indonesian sovereignty, namely the Malacca Strait, the Sunda Strait, the Lombok Strait, and the Strait. Makassar. The purpose of this paper is to analyze regulations relating to the use of the Makassar Strait. This type of research is normative legal research using a statutory approach. Data collection techniques used are document studies or library materials, all data collected are analyzed qualitatively, then described to answer the problem. The results show that the birth of the 3rd United Nations (UN) Convention on the Law of the Sea (United Nation Convention on the Law of the Sea / UNCLOS), December 10, 1982, was the beginning of the birth of the law of the sea which recognized the concept of an archipelago state. The Government of the Republic of Indonesia then ratified the convention with the Law of the Republic of Indonesia No. 17 of 1985. Then the promulgation of Law No. 6 of 1996 on Indonesian Waters, as well as Government Regulation No. 37 of 2002 concerning the Rights and Obligations of Foreign Ships and Aircraft in Implementing the Right of Archipelagic Sea Lane Passage through Designated Archipelagic Sea Lanes. The latest regulation is that the Government has issued Presidential Regulation No. 83/2020 concerning the Zoning Plan for the Makassar Strait Interregional Area, which is the entire Regulation Relating to the Use of the Makassar Strait. Therefore, the potential threats in each of the Indonesian Archipelago Sea Lanes must be handled properly, especially in the Makassar Strait area which will become a future transshipment, given the current density of the Malacca Strait.

Keywords: makassar strait, regulation, world strategic route.

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INTRODUCTION

The declaration announced by the Coordinating Minister for Luhut regarding the map of the North Natuna Sea region, of course, caused a strong reaction from several friendly countries bordering, especially Vietnam and the People's Republic of China (China-PRC). The strong reaction came from China because the announcement of the unilateral map to be submitted to the United Nations Group of Experts on Geographical Names (UNGEGN) was related to the announcement of China's unilateral map of the Nine Dush Line (nine dashes). Apart from China, of course Vietnam has objected because the area of the announcement of Indonesia's unilateral map of the North Natuna Sea also touches on claims from Vietnam, which so far have been a dispute area between Indonesia and Vietnam. (Kompas, 2017)

The world's sea lanes of communication pass through seven straits which are politically and economically very strategic because they involve the survival of a number of countries where four of these waters are within Indonesian sovereignty, namely the Malacca Strait, Sunda Strait, Lombok Strait, and the Strait. Makassar (Antara News, 2013). The Makassar-Lombok Strait is located right in the middle of the Indonesian archipelago which of course is an inland water that cannot be contested by other countries. The two straits are under Indonesian sovereignty; thus the two straits are under Indonesian control. Because the two straits are under Indonesian sovereignty, all rights to exploitation



and exploration are in the hands of Indonesia. All forms of foreign efforts to exploit and explore the Makassar Lombok Strait must obtain permission from the Indonesian government (S.M. Noor, et al, 2015).

To date, the Makassar-Lombok Strait has established several factories with strategic importance, including oil drilling off the coast of the sea island. The natural gas plant in Bontang, the coal mine in Tenggarong; all of these are located in East Kalimantan. In South Sulawesi, there are several factories of strategic importance, including nickel mining in Pomala and Soroako and iron ore mining in the Verbek Mountains. Also, a tonasa cement factory in Pangkep and asphalt mining on Buton Island. In addition, it has been surveyed the possibility of finding other mineral resources on the seabed of the two straits such as nodules and manganese. Likewise, the possibility of finding oil wells off the east coast of Kalimantan, the west coast of Sulawesi to the offshore coasts of the islands in West Nusa Tenggara. In the meantime, the Makassar Strait is very well known for its hard waves, so it has the potential to be developed as a power plant. Of course, the potential of biological resources is quite encouraging because the waters are rich with fishery products. All residents who live along the coast of the Makassar Strait still make the potential of fishery resources in these waters a main source of income (S.M. Noor, et al, 2015).

As is well known, the activity of the largest military fleet in the world is in the Pacific Ocean and second in the Indian Ocean. With these two oceans the Indonesian archipelago lies between them and the Makassar-Lombok Strait is the most possible potential crossing corridor. This has been reflected in several analyzes by US maritime military experts. Among them are Robert E. Osgood in a part of his article U.S. Security Interest in Ocean Law (in Ann L. Hollick and Robert E. Osgood, 1974) states that "the two Indonesian suits, Ombai-Wetar and Makassar-Lombok are important to SSBN operations from the Indian ocean to Guam. Without submerged passage through them, the US would have to & cum-navigate Australia".

The Makassar-Lombok Strait is a strait located between the islands of Kalimantan and Sulawesi in Indonesia (the Makassar Strait) and between the islands of Bali and Lombok (the Lombok Strait). This Strait also connects the Sulawesi Sea in the North with the Java Sea in the South and connects the Java Sea with the Indian Ocean, so that if you pay close attention, this strait (Makassar-Lombok Strait) can be used as one (of several) channels. alternative to international navigation traffic. However, keep in mind that there are several criteria for a channel to be used as an international navigation traffic flow. The right of archipelagic sea lane passage is defined in Article 53 (3) of the Law of the Sea Convention (hereinafter abbreviated as LOSC) as follows ". . . . right of navigation and flight with normal mode which can only be used for continuous, direct, and unobstructed passage from one part of the EEZ and the high seas to another part of the EEZ and the high seas ”.

Based on these provisions, archipelagic sea lanes such as other forms of passage (peaceful passage and transit passage) constitute the right of foreign ships and aircraft to pass through the normal way continuously, directly and unobstructed from one part of the free sea or the Exclusive Economic Zone (in the further mention abbreviated as EEZ) to other parts of the high seas or other EEZ (KresnoBuntoro, 2012:50).

In the southern part of the Makassar Strait, as a shipping route from the Australian pointing to the Makassar Sea or vice versa as a continuation of the Lombok Strait, the route in the southern part of the Makassar Strait poses a high level of navigation hazard challenges. This navigation hazard is caused by existing geographical conditions. In this area there is 'GosongSibald' which is about 8.5 meters deep with a very wide burnt area and the distance from the ALKI II axis line is about 2 nautical miles. In addition, around this area there are superficialities that are very dangerous for navigation. In this area there are also many environmental conservation areas, for example "Takabonerate" (KresnoBuntoro, 2009: 122).

There are quite a lot of inter-insular traffic passing through the Makassar Strait area. This traffic connects Sulawesi Island to Java Island, Sulawesi Island to Kalimantan. In addition, this area has quite high fishery potential so that there are many fishing boats from Java, Kalimantan and Sulawesi Island fishermen. With the plan to form the Makassar Port as an international port and as a port that accommodates industrial output as the economic center of Eastern Indonesia, it can be predicted that the traffic of ships going to or leaving this port will be higher and most of it will pass through the

Makassar Strait due to geographical conditions. in the southern part of the Makassar Strait which is very prone to safety due to navigation hazards, Indonesia can determine TSS along the channel which is very vulnerable both from the aspect of shipping and the marine environment. By paying attention to the ALKI axis lines and geographic conditions, the proposed TSS must be supported by navigation advice and, if possible, requires a guide obligation in this area (KresnoBuntoro, 2014: 52). Therefore, it is important to analyze in depth regarding the optimization of the Makassar Strait as a World Strategic Strait.

1. RESEARCH METHOD

The type of research used is normative legal research (SoerjonoSoekanto and Sri Mamudji, 2011: 14) by using a statutory approach (Peter Mahmud Marzuki, 2010: 96). The data to be used in this study are categorized into secondary data obtained through library materials, which include primary and secondary legal materials. The data collection technique used is the study of documents or library materials, all data collected were analyzed qualitatively (Matthew B. Miles and A Michael Huberman, 2009: 15), then described to answer the problems in this study.

2. RESULTS AND DISCUSSION

As an archipelagic country that has been recognized by the international community as having the consequences of expanding its area, Indonesia can utilize and exploit marine natural resources contained in the water column, seabed, and under the seabed in a good and directed manner. One of the areas in Indonesian waters that has natural resources and potential marine environmental conditions is the waters in the Makassar Strait. Geographically and ecologically, these waters are located between two oceans, namely the Sulawesi Sea and the Java Sea, and are flanked by two landmasses, namely Kalimantan and Sulawesi. In addition, the waters of the Makassar Strait are rich in mining materials and mineral resources so that the condition of the waters has an impact on progress in the economic, mining and transportation sectors for Indonesia and the local government (Djoko HadiKunarto, 2011: 32). All-natural resource wealth (marine) must be regulated in such a way so that Indonesia as the owner who has sovereignty in the territorial territory and sovereign rights in the territory of the auxiliary zone and the exclusive economic zone is not harmed by other countries who wish to exploit and take advantage solely from the wealth of natural resources (marine) of Indonesia.

The birth of the 3rd United Nations (UN) Convention on the Law of the Sea (United Nation Convention on the Law of the Sea / UNCLOS), December 10, 1982, was the beginning of the birth of the law of the sea which recognized the concept of an archipelago state. The Government of the Republic of Indonesia then ratified the convention with the Law of the Republic of Indonesia No. 17 of 1985. Since 1994, the International Law of the Sea has officially been in effect and since that time the Indonesian people have the sovereign right to exploit natural resources, including those on the seabed and below. Article 49 UNCLOS 1982 states that the sovereignty of an archipelagic state includes waters covered by baselines as well as airspace above it and the seabed and land beneath it. In 1996, the Government of Indonesia proposed to the International Maritime Organization (IMO) regarding the establishment of the Indonesian Archipelago Sea Channel (ALKI) and its branches in Indonesian waters. In accordance with Article 1 paragraph (8) of Law No. 6 of 1996 concerning Indonesian Waters, Archipelagic Sea Lanes are sea lanes traversed by foreign ships or aircraft above the channel, to carry out shipping and flights in a normal manner solely for continuous, direct, and fast transit as possible and not. obstructed through or over archipelagic waters and adjacent territorial seas between one part of the high seas or the Indonesian Exclusive Economic Zone and in other parts of the high seas or the Indonesian Exclusive Economic Zone (Lidya Christin Sinaga, no year). The determination of the Indonesian Archipelago Sea Channel and its branches in Indonesian waters, which was later approved by the International Maritime Organization, had both positive and negative impacts on Indonesia. The positive impact obtained is that Indonesia has stronger legitimacy as an archipelagic country, both as the owner of sovereignty and sovereign rights. On the other hand, like a double-edged knife, the negative side of the determination of the Indonesian Archipelago Sea Channel and its branches makes Indonesia an open archipelago and has great potential to be used as a place to commit transnational crimes for other countries, especially on international navigation routes.



General explanation of Government Regulation No. 37 Year 2002 concerning the Rights and Obligations of Foreign Ships and Airplanes in Implementing the Right of Archipelagic Sea Lane Passage through the Stipulated Archipelagic Sea Lanes explains that RI Law Number 6 of 1996 concerning Indonesian Waters is stipulated as a follow-up to Law of the Republic of Indonesia Number 17 of Year 1985 concerning the Ratification of the United Nations Convention on the Law of the Sea, in accordance with the provisions of the Convention contains provisions that the sovereignty of the Republic of Indonesia includes in addition to land and inland waters as well as territorial seas and archipelagic waters as well as airspace over land areas, inland waters, territorial seas and the island's waters. Even though Indonesia has sovereignty over the territorial seas and waters of the Indonesian archipelago, Republic of Indonesia Law Number 6 of 1996 concerning Indonesian Waters, in accordance with the 1982 United Nations Convention on the Law of the Sea, contains the provision that foreign ships and aircraft enjoy the right of passage. Archipelagic Sea through the Territorial Sea and Indonesian Archipelagic Waters for the purposes of crossing the territorial sea and archipelagic waters from one part of the free sea or the exclusive economic zone to another part of the free sea or the exclusive economic zone.

Law of the Republic of Indonesia Number 6 Year 1996 concerning Indonesian Waters, contains the main provisions regarding the right of archipelagic sea lane passage as contained in the 1982 United Nations Convention on the Law of the Sea, while further provisions regarding the provisions of the right of archipelagic sea lane passage will further regulated in a Government Regulation. This Government Regulation needs to contain provisions for the implementation of the provisions for archipelagic sea lanes passage as contained in Law No. 6 Year 1996 concerning Indonesian Waters and other provisions concerning archipelagic sea lanes passage as contained in the United Nations Convention on the Law of the Sea 1982. In the context of implementing the right of archipelagic sea lane passage to cross the territorial sea and Indonesian waters, in accordance with the provisions of the 1982 United Nations Convention on the Law of the Sea, Indonesia may determine certain sea lanes from between the sea lanes commonly used. for international shipping as sea lanes that can be used for the implementation of the archipelagic sea lanes passage.

The exercise of the right of archipelagic sea lanes passage is carried out through routes normally used for international navigation as defined in Article 53 paragraph (12) of the Convention, which can pose many risks from a security perspective, because the passage of such archipelagic sea lanes is a passage containing freedoms. certain. To reduce risks from a security perspective, the implementation of the right of archipelagic sea lane passage needs to be determined by archipelagic sea lanes which can be used for the exercise of the right of archipelagic sea lane passage. The determination of sea lanes is carried out by the Government of Indonesia by considering the interests of the international community through an international organization that is competent in the field of international shipping, namely the International Maritime Organization (IMO). On May 19, 1998 the 69th Maritime Safety Committee Session of the Maritime Organization, namely the Maritime Safety Committee (MSC 69 IMO), accepted the Indonesian Government's proposal (submission) regarding the determination of the 3 (three) axes of archipelagic sea lanes and their branches that can be used for the exercise of the right of archipelagic sea lane passage across Indonesian waters. As a follow-up to the acceptance of the Indonesian Government's proposal by IMO, it is necessary to establish 3 (three) Archipelagic Sea Lanes and their branches in a Government Regulation by determining the geographic coordinates of the connecting points connecting the archipelagic sea lanes.

By stipulating the 3 (three) Archipelagic Sea Lanes with their branches, it does not mean that the three archipelagic sea lanes with these branches can only be used for the exercise of the right of archipelagic sea lane passage by foreign ships intending to sail from one part of the free sea. or the exclusive economic zone across Indonesian waters to other parts of the high seas or the exclusive economic zone. Foreign ships wishing to sail from one part of the free sea or the exclusive economic zone to one of the ports in Indonesia or to another part of the free sea or the exclusive economic zone can carry out their voyages based on the right of peaceful passage in Indonesian waters, either in archipelagic sea lanes or outside. archipelagic sea lanes. In connection with that, in accordance with the provisions of Article 18 and Article 19 of Law of the Republic of Indonesia Number 6 of 1996 concerning Indonesian Waters, it is necessary to establish a Government Regulation regulating the Rights and Obligations of Foreign Ships and Aircraft in Implementing Archipelagic Sea Lane Rights through Designated Sea Lanes.



RI Government Regulation No. 37 of 2002 concerning the Rights and Obligations of Foreign Ships and Aircraft in Implementing the Right of Archipelagic Sea Lane Passage through Archipelagic Sea Lanes which are stipulated is an implementing regulation of Law of the Republic of Indonesia Number 6 of 1996 concerning Indonesian Waters which is a follow-up to the Ratification of the United Nations Convention concerning Law of the Sea with Law Number 17 of 1985 concerning Ratification of the United Nations Convention on the law of the Sea: In connection with this, in order to ensure consistency in the interpretation of the provisions of this Government Regulation with the interpretation of the provisions of the United Nations Convention on the Law of the Sea in 1982 , in accordance with what has been done in the explanation of the articles of Law of the Republic of Indonesia Number 6 of 1996, in the explanation of the articles of this Government Regulation it is deemed necessary to make an appointment to the paragraph or article of the provisions of the United Nations Convention, particularly the explanation of the articles. Article signed the master is not contained in Law No. 6 Year 1996 on Indonesian Waters but is contained in the 1982 United Nations Convention on the Law of the Sea.

The supervision that needs to be carried out so that foreign ships carrying out archipelagic sea lanes crossing Indonesian waters comply with the provisions of this Government Regulation are carried out in accordance with the regulations as referred to in Article 24 paragraph (1) of Republic of Indonesia Law Number 6 of 1996. Such supervision is mature This is carried out, among others, based on the 1939 Territorial Ocean and Maritime Environment Ordinance (Stbl. 1939 Number 442) and its implementing regulations namely Verordening of the Territorial Sea and Maritime Environment 1935 (Stbl. 1935 Number 525) and Decree of the Governor General Number 39 of 1939 concerning Instructions for use in investigation of criminal acts at sea.

In accordance with Indonesian Government Regulation No. 37 of 2002 concerning the Rights and Obligations of Foreign Ships and Aircraft in Implementing the Right of Archipelagic Sea Lane Passage through the Designated Archipelagic Sea Lanes, there are 3 (three) ALKIs and their branches. First, the route on ALKI I which is used for shipping from the South China Sea across the Natuna Sea, Karimata Strait, Java Sea and Sunda Strait to the Indian Ocean, and vice versa; and for shipping from the Singapore Strait via the Natuna Sea and vice versa (Sea Channel Branch I A). Second, the route on ALKI II which is used for shipping from the Sulawesi Sea across the Makassar Strait, Flores Sea and Lombok Strait to the Indian Ocean, and vice versa. Third, the route on ALKI-III-A which is used for shipping from the Pacific Ocean across the Maluku Sea, Seram Sea, Banda Sea, Ombai Strait, and Savu Sea. ALKI III-A itself has 4 branches, namely ALKI Branch III B: for shipping from the Pacific Ocean across the Maluku Sea, Seram Sea, Banda Sea, and Leti Strait to the Indian Ocean and vice versa; ALKI Branch III C: for shipping from the Pacific Ocean across the Maluku Sea, Seram Sea, Banda Sea to Arafura Sea and vice versa; ALKI Branch III D: for shipping from the Pacific Ocean across the Maluku Sea, Seram Sea, Banda Sea, Ombai Strait, and Savu Sea to the Indian Ocean and vice versa; ALKI Branch III E: for shipping from the Indian Ocean across the Savu Sea, Ombai Strait, Banda Sea, Seram Sea and Maluku Sea (Lidya Christin Sinaga, no year). The Indonesian Archipelago Sea Channel and its branches mentioned above must be watched out for and given extra security because these channels are very open because they are an international navigation route, where foreign ships are free to pass by in the area.

The latest regulation is that the Government has issued Presidential Regulation No. 83/2020 concerning the Zoning Plan for the Makassar Strait Interregional Area. This Presidential Regulation is issued based on the consideration that to carry out zoning planning for marine areas in the form of zoning plans for interregional areas as referred to in Article 43 paragraph (4) of Law of the Republic of Indonesia Number 32 of 2014 concerning Maritime Affairs (State Gazette of the Republic of Indonesia of 2014 Number 294, Supplement to the State Gazette Republic of Indonesia Number 5603) and in order to implement the provisions of Article 48 of Government Regulation of the Republic of Indonesia Number 32 of 2019 concerning Marine Spatial Planning (State Gazette of the Republic of Indonesia of 2019 Number 89, Supplement to State Gazette of the Republic of Indonesia Number 6345), it is necessary to stipulate a Presidential Regulation on Zoning Plans Makassar Strait Interregional Area.

This presidential regulation promulgated on 27 July 2020 regulates that the Interregional Area is a sea area which includes two or more provinces in the form of bays, straits and seas. Whereas the Zoning



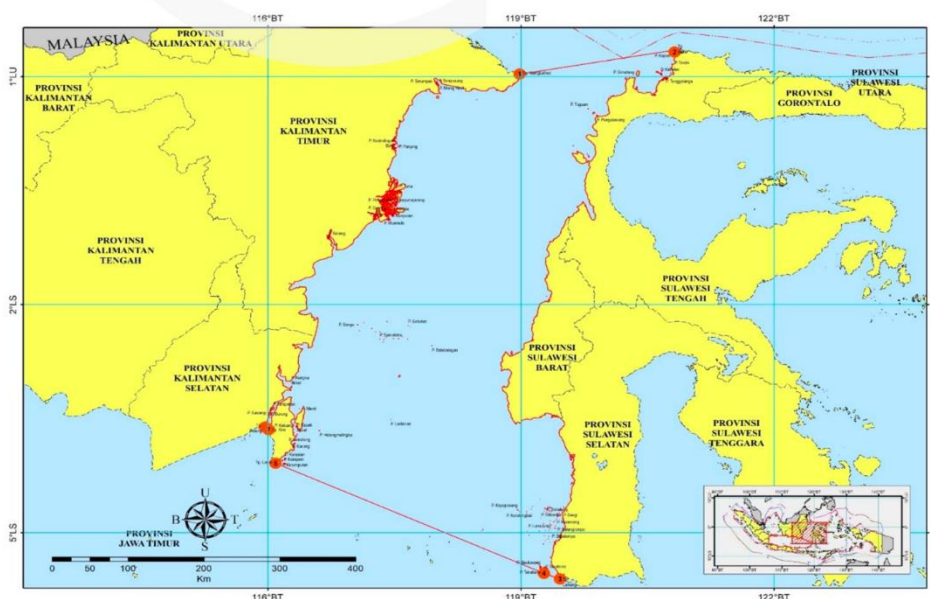
Plan for Coastal Areas and Small Islands (RZWP-3-K) is a plan that determines the direction of resource use for each planning unit accompanied by the determination of the spatial structure and pattern in the Coastal Zone and Small Islands that may be carried out as well as activities which can only be done after obtaining permission.

The Presidential Regulation Number 83 Year 2020 also regulates the boundary of the zoning plan for the Makassar Strait Interregional Area which includes:

- a. to the north, which is the line connecting TanjungMangkalihat, East Kutai Regency, East Kalimantan Province at coordinates 1 ° 02 'North Latitude-118 ° 59' East Longitude, on the east coast of Kalimantan Island, to the east to TanjungBesar, Toli-Toli Regency, Sulawesi Province Middle at coordinates 1 ° 20 'North Latitude-120 ° 49' East Longitude, on the northwest coast of Sulawesi Island;
- b. east, namely TanjungBesar to the south along the west coast of Sulawesi Island to the south to TanjungLaikang, Takalar Regency, South Sulawesi Province at the coordinates of 5 ° 37 'South Latitude-119 ° 28' East Longitude, on the southwest coast of Sulawesi Island;
- c. south, namely as follows:
 - 1. The line connecting TanjungLaikang to the northwest to the westernmost part of Tanakeke Island, Takalar Regency, South Sulawesi Province, at the coordinates of 5 ° 32 'South Latitude-119 ° 16' East Longitude;
 - 2. The line connecting the westernmost part of Tanakeke Island to the northwest to TanjungLayarKotabaru Regency, South Kalimantan Province at coordinates 4 ° 05 'South Latitude-116 ° 05' East Longitude in the southernmost part of Kotabaru Regency;
 - 3. TanjungLayarKotabaru Regency, South Kalimantan Province to the north along the west coast of PulauLaut, Kotabaru Regency, South Kalimantan Province to Tanjung Kiwi, Kotabaru Regency, South Kalimantan Province at coordinates 3 ° 39 'South Latitude-115 ° 00' East Longitude in the western part of the Island Laut, Kotabaru Regency, South Kalimantan Province; and
 - 4. The line connecting Tanjung Kiwi, Kotabaru Regency, South Kalimantan Province to the west to TanjungPetang, Tanah Bumbu Regency, South Kalimantan Province at coordinates 3 ° 37 'South Latitude-115 ° 58' East Longitude at the end of the southeast coast of Kalimantan Island.
- d. west, namely TanjungPetang Tanah Bumbu Regency, South Kalimantan Province, to the north along the east coast of Kalimantan Island to TanjungMangkalihat, East Kutai Regency, East Kalimantan Province at coordinates 1 ° 02 'North Latitude-118 ° 59' East Longitude.

The following are some pictures that are attached to Presidential Regulation No. 83 Year 2020 concerning the Zoning Plan for the Makassar Strait Interregional Area:

Map of the zoning plan for the Makassar Strait Interregional Area





CONCLUSION

The birth of the 3rd United Nations (UN) Convention on the Law of the Sea (United Nation Convention on the Law of the Sea/UNCLOS), December 10, 1982, was the beginning of the birth of the law of the sea which recognized the concept of an archipelago state. The Government of the Republic of Indonesia then ratified the convention with the Law of the Republic of Indonesia No. 17 of 1985. Then the promulgation of Law No. 6 of 1996 on Indonesian Waters, as well as Government Regulation No. 37 of 2002 concerning the Rights and Obligations of Foreign Ships and Aircraft in Implementing the Right of Archipelagic Sea Lane Passage through Designated Archipelagic Sea Lanes. The latest regulation is that the Government has issued Presidential Regulation No. 83/2020 concerning the Zoning Plan for the Makassar Strait Interregional Area, which is the entire Regulation Relating to the Use of the Makassar Strait. Therefore, the potential threats in each of the Indonesian Archipelago Sea Lanes must be handled properly, especially in the Makassar Strait area which will become a future transshipment, given the current density of the Malacca Strait.

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