

CHAPTER V

CLOSING

A. Conclusion

Arrangements regarding archipelagic states in international law are regulated from Article 46 to Article 54 UNCLOS 1982. Provisions regarding the right of archipelagic sea lane passage according to international law are regulated in Article 53 UNCLOS 1982. Article 53 states that an archipelagic state has the right to determine the right of archipelagic sea lane passage, meaning that there is no obligation for the archipelagic state to stipulate the right of archipelagic sea lane passage. Indonesia has ratified the 1982 International Law of the Sea Convention through Law No. 17 of 1985. As the implementation of UNCLOS 1982, Indonesia has issued Law no. 6 of 1996 concerning Indonesian Waters and Government Regulation no. 37 of 2002 concerning the right of archipelagic sea lanes. The determination of Indonesian sea lane routes is regulated in Article 11 of Government Regulation Number 37 of 2002 concerning the Rights and Obligations of Foreign Ships and Aircraft in Implementing the Rights of Archipelagic Sea Lane Passage through the stipulated Archipelagic Sea Lanes. In this government regulation, the Indonesian Archipelagic Sea Route is divided into three routes, each of which has specified branches. The Indonesian Archipelagic Sea Lane I which has two branches, the Indonesian Archipelagic Sea Channel II which has no branches, and the Indonesian Archipelagic Sea Channel III which has several branches, namely the Indonesian Archipelagic Sea Lane. The Indonesian archipelagic sea lane

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The case of violations of the Indonesian archipelagic sea lanes by two foreign tankers, namely MT. Horse (Iranian flag) and MT. Freya (Panama flag) in 2021 was settled in the Batam District Court. The violations committed by the two foreign ships, MT. Horse and MT. Freya, were that the ship was not in the corridors of IASLs 1 but was actually outside IASLs within 25 nautical miles left and right of the IASLs axis when the ship was exercising the right of archipelagic sea lane passage in the Pontianak Sea area. According to the panel of judges, the ship had violated the right of archipelagic sea lane passage as stipulated in Article 317 in conjunction with Article 193 paragraph 1 of Law Number 17 of 2008 concerning Shipping and Article 104 Law of the Republic of Indonesia Number 32 of 2009 concerning Environmental Protection and Management in conjunction with Article 55 paragraph (1) of the 2nd Criminal Code. The Marine Security Agency found that the two ships had turned off AIS (Automatic Information System) which violated the provisions of Article 3 of

the Regulation of the Minister of Transportation of the Republic of Indonesia Number PM 58 of 2019 concerning Amendments to the Regulation of the Minister of Transportation Number PM 7 of 2019 concerning Installation and Activation of Identification Systems. Automatically for Vessels Sailing in Indonesian Waters. Then Marine Security Agency also found other violations, namely that the two ships had carried out illegal fuel transfers and stopped in Indonesian territorial waters while exercising the right of peaceful passage and polluted the marine environment by disposing of waste. The court decided that the two tankers had violated Article 317 in conjunction with Article 193 paragraph 1 of Law Number 17 of 2008 concerning Shipping. The two captains of the ship were sentenced to probation for one year without the need to carry out their prison sentences, but if during their probationary period both committed other crimes, they could be sentenced to two years in prison. Especially for the captain of the Panama-flagged MT. Freya, he was sentenced to a fine of two billion rupiah because according to the panel of judges it was proven that he had polluted the marine environment. The panel of judges decided that the ship MT. Freya violated the provisions of Article 104 Law of the Republic of Indonesia Number 32 of 2009 concerning Environmental Protection and Management in conjunction with Article 55 paragraph (1) of the 2nd Criminal Code.

B. Suggestion

The Indonesian government should improve Marine Security Agency's defense equipment, at least the government needs to add larger ships, in order to improve the eradication of marine crimes committed by irresponsible parties due to the lack of patrol boats owned by Marine Security Agency RI.

