

## Legal Capacity of Regional Organizations in Indonesian Maritime Modernization: A Momentum and Strength

Dita Birahayu<sup>1\*</sup>

Article	Abstract
<p><b>Keywords:</b> Legal Capacity; Indonesian Modernization; Organization</p> <p><b>Article History</b> Received: Sep 12, 2022; Reviewed: Oct 31, 2023; Accepted: Oct 31, 2023; Published: Nov 03, 2023.</p>	<p>This paper aims to examine the influences of international cooperation between member states of regional organizations in Indonesia's maritime modernization and dispute resolutions of regional international organizations for international violations. This research uses normative juridical research with a statutory approach and a conceptual approach. The results of the discussion show that sea power is the most important element for the progress and glory of a country, which if the sea power is empowered, it will improve the welfare and security of a country. On the other hand, if this sea power is ignored, it will result in losses to a country or even bring down the country. State power can be represented in state membership in international organizations based on the legal capacity of the organization to achieve the objectives of state interests that cover a very broad range of life. Indonesia's active role in international maritime organizations is a momentum and maritime strength in order to support the progress of Indonesia's maritime modernization as stipulated in Presidential Regulation Number 30 of 2019 and dispute resolution between members of the organization based on article 12 Draft Articles on the Responsibility of International Organizations (DARIO).</p>



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### Introduction

In the era of growing globalization, global maritime power competition has a significant impact on the Southeast Asian region, especially Indonesia. Indonesia is an archipelagic state its geographical position and conditions not only place Indonesia as a country that has a strategic position for international shipping but also pose considerable challenges especially to realize Indonesia as a World Maritime Axis (Pertiwi, 2020). As

<sup>1</sup> Faculty of Law, Hang Tuah University, Indonesia

\* Correspondence: Dita Birahayu, International Law Department, Faculty of Law, Hang Tuah University, Surabaya, East Java, 60117, Indonesia. E-mail: [dita.birahayu@hangtuah.ac.id](mailto:dita.birahayu@hangtuah.ac.id)

an Asian tiger, Indonesia prepares the world's maritime axis which is also the maritime center in Southeast Asia which is supported by Indonesia's very strategic location. To prepare the world's maritime axis, many strategies must be prepared in advance to become the Asian Maritime Center (Kamarudin, 2021).

East Asia and Asia Pacific as a whole play an important role in global security and economic stability (Purnama, 2020). This causes each country to carry out policies based on its perspective and strategic interests, giving rise to diverse dynamics, including Indonesia. This is a question of Indonesia's realistic needs. This strategic area has transformed into an important area in global politics. Its main strength becomes strategic competition in various economic and security cooperation (Oliveira, 2017). Indonesia's geostrategic and geoeconomic position is embodied in the Maritime Axis policy which is an important step to synergize economic improvement strategies and on the other hand also directly strengthen Indonesia's maritime defense and security. The geoeconomic and geopolitical center of gravity of the world has shifted from West to East, so it needs to be shown that Indonesia will become the World Maritime Axis as well as a prosperous and authoritative maritime country (Rachman, 2022).

The maritime region is a vital region for global economic life and the projection of national power in the future. Goldrick argues that the centrality of the role of the state will continue to exist in conditions like this (Syahrin, 2018). In order to realize maritime areas due to the need for centrality of policies, it will be able to realize maritime security stability and national interests have an impact on economic development and national welfare (Nainggolan, 2015). Maritime significance in the context of the implementation of archipelagic and maritime policies that have always been inherent in the Indonesian nation. The nature of the archipelago has indeed become natural, where the geographical structure of Indonesia does consist of thousands of micro and small to large (continental) islands. Indonesia has always been touted as the largest archipelagic country. The nature of the archipelago is strengthened by the Government of Indonesia through Law of the Republic of Indonesia Number 6 of 1996 concerning Indonesian Waters (hereinafter referred to as the Water Law) Chapter I Article 2 paragraph (1) that the State of the Republic of Indonesia is an archipelagic state and paragraph (2) all waters around it, between and connecting islands or parts of islands included in the mainland of the Republic of Indonesia, without taking into account the area or width is an inseparable part of the area land of the Republic of Indonesia so that it is part of Indonesian waters under the sovereignty of the Republic of Indonesia (Risnain, 2021).

To defend and fight for this not only with a security approach, but also by presenting the welfare of the country there. With prosperity and economic prosperity, security guarantees in the territorial waters will be achieved. Indonesia is very likely to become a world maritime axis country if these important elements can run synergistically (Santoso & Nafisah, 2017). Until now, Indonesia has not been able to achieve stable economic achievements due to many infrastructure problems and security systems that are still not optimal. As a result, the cost of production and logistics of goods becomes very high. Maritime power is a symbiosis between domestic industry (economy) and Indonesian military capabilities through the Indonesian Navy in protecting Indonesia's territorial territory (security). In previous studies related to the role of regional organizations, it has been discussed about the active role of regional organizations in the maintenance of international peace and security, but in international arrangements it has not been clearly regulated, especially in its scale and accountability mechanisms (Mulyana & Handayani, 2015). In the next study, there is Indonesia's role in the implementation of the ASEAN Political Security Community which makes ASEAN a stable, safe, and prosperous region (Sari, 2019). In the next study, there is the role of international maritime organizations through maritime conventions in international trade traffic in Indonesian waters. Previous research has only discussed the role of regional organizations in the field of defense and international security in general and also their dispute resolution mechanisms. As well as Indonesia's special role in international security that applies only within ASEAN. In the previous post also focuses on areas of international trade limited to the locus of Indonesian waters. The role of IMO affects the safety and security aspects of shipping (Sagala, 2021). There has been no discussion of the legal capabilities of a regional organization for Indonesia's maritime modernization.

Seeing this urgency, this paper tries to provide an overview of the legal capacity in the form of legal capacity and legal personality of a regional organization as a form of legal capability in maritime modernization, especially in Indonesia which will certainly be based on international cooperation in the maritime sector. The basic argument of this paper is on the aspects of legal capacity and legal personality of a regional organization that is followed by a country as a manifestation of international cooperation. After providing this description, this paper also describes the role of regional organizations that Indonesia participated in in Indonesia's maritime modernization. This research further limited the scope of the study to the capabilities of regional international

organizations, the influence of international cooperation among member countries of the organization in Indonesia's maritime modernization as well as the responsibility and settlement of regional organizations for violations of international obligations.

## Method

This research uses a form of normative legal research and also qualitative descriptive research aimed at describing the data collected in order to solve research problems (Ibrahim, 2013). The purpose of this study is to examine the correct legal answers and perspectives of legal solutions to legal problems that are arising from Indonesia's maritime modernization through international organizations. This research also uses a statute approach, which is carried out by examining all laws and regulations related to legal issues being handled and conceptual approach moving from the views and doctrines that develop in legal science (Marzuki, 2009). Data were collected from primary and secondary legal materials collected by literature study techniques and presented within a theoretical framework. Primary sources of legal materials are in the form of laws and regulations, while secondary sources of legal materials consist of books and journals (Ibrahim, 2013).

In this study, the primary legal materials used are Indonesian national regulations including Law Number 37 of 1999 concerning Foreign Relations, Presidential Regulation Number 30 of 2019 concerning Indonesia's Membership and Contribution to International Organizations. While the international regulations used are the United Nations (UN) Charter 1945 and the International Law Commission (ILC), Responsibility of International Organizations. The benefits obtained from literature studies will be obtained from theories and concepts that have a general nature related to problems (Julaika, 2019).

## Discussion

### 1. Capabilities of Regional International Organizations under International Law

Organizational ability is the ability possessed by an organization to carry out its goals and functions to achieve certain goals that have been set before. The interaction of all capabilities of public organizations will produce the output needed for public services carried out by the organization. International organizations and countries are inseparable from each other. States with sovereignty have been recognized as legal

subjects in international law, bound by international treaties that are used as guides in all activities. International organizations are a forum for countries to carry out joint tasks both in the form of subordinate and coordinating cooperation as well as to solve a particular problem together (Setianingsih, 2004).

In line with the definition of an international organization is a gathering place of states that are sovereign right and have sovereignty. Basically, international organizations are manifestations of the interests of various countries (Puspoayu, 2017). In this study, the international organization that is the object of research is a regional and functional international organization in Southeast Asia, namely ASEAN. ASEAN is a functional organization because of the purpose of cooperation for certain fields. External relations and cooperation of ASEAN regional organizations are not only carried out with other organizations but also carried out with countries as its legal subjects. Relations and cooperation are developed through the principle of friendly and mutually beneficial relations with various countries, sub-regional organizations, regional organizations, and international organizations. With regard to the relationship and cooperation of regional organizations, it is necessary to know in advance about legal capacity and legal personality as a basis for the enactment of all legal acts and legal consequences inherent in international organizations. Legal personality is very important in international organizations because without it international organizations cannot operate because they must be able to defend and enforce claims. Personality in international law takes into account the interrelationship between rights and obligations made possible under the international system and the capacity to enforce claims (Shaw, 2008).

International organizations can be said to be legal entities with the aim of creating order and legal certainty, every entity in a society must be clearly regulated. Determination of the legal status of an entity, giving the entity rights and obligations. Any legal action will result in the birth of legal liability by the subject. The legal subjects of international organizations have legal capacity and legal personality. Legal capacity can be defined as the ability to act legally, that is, what individuals can do within the framework of the legal system. This ability is a conception that is the relationship established by the legal system between the subject of law and the legal system itself. Not all international organizations have the status of subjects of international law. Only a few international organizations are recognized as having international legal personality. So, an international organization in addition to having legal personality in

international law also has personality in the national law of its member countries (Garner, 2019):

"The capacity to be a person before the law gives individuals the right to have their status and capacity recognized in the legal order. The concept of 'legal capacity' is a broader concept that logically presupposes the ability to be a holder of potential rights and obligations, but it also requires the capacity to exercise these rights and to perform these duties in one's own way of conduct."

The capacity of the subject before the law gives the individual rights based on his status and ability to be recognized in the legal order. The concept of legal capacity is a broad concept that entails the ability to be a holder of rights and obligations, as well as the ability to carry them out in their own way. Thus, the ability to act legally gives the legal subject the right to perform legal actions on his behalf. Legal Personality is a concept in international law. In simple terms, according to Black's Law Dictionary, personality, defined as (Garner, 2019):

"The legal status of a person regarded by law as a person; The conception of law by which the law regards human beings or artificial entities as persons – also called legal personalities. The 'legal personality' is in turn referred to as the particular device by which the law creates or recognizes units that are considered to have certain powers and capacities."

An international organization formed by treaty with any form of principal instrument by name shall have a legal personality in international law. This legal personality is absolutely essential to enable international organizations to function in international relations. The legal personality of international organizations is divided into two, namely: a) juridical personality in relation to national law can be seen especially if the international organization will establish a permanent secretariat or headquarters of the organization through a head office agreement. For example, the headquarters agreements made by the United Nations with the United States, the Netherlands, Switzerland, and Austria; ASEAN with Indonesia, b) juridical personality in relation to international law can be interpreted that international organizations have rights and obligations under international law. These rights and obligations include having the authority to sue and be prosecuted before the court, obtaining and possessing movable objects, having immunity, and privileges (Suryokusumo, 2015).

The legal personality of an international organization enables an international organization to exercise its legal functions and establish external relations (coordination functions or external relations), whether with member states, host states, non-member states, or with other international organizations. The position of international

organizations that have the legal ability to support rights and obligations means that they are also persons of international law and thus are subjects of international law (Corneless, 2018). International organizations are bound by international law because the international community is their subject. International organizations are the result of international law and serve as a forum that unites many countries in the international world. They undoubtedly have a lot of dependence. International cooperation will emerge as a result of the existence of international organizations, allowing these bodies to contribute in various ways to global affairs and advance globally. Due to the fact that international organizations operate on a global scale, they need to be bound by law. Therefore, international law should be used because it is one of the laws created by the international community and is considered reliable. International organizations are subject to the rules and regulations of international law, which they must comply with. They are also prohibited from breaking its rules (Hartana & Dewi, 2020).

International organizations are manifestations of the interests of various countries of the world. Thus, international organizations can be said to be concrete forms of the highest potentias of states collectively at the international level. The charter (basic instrument) is used as a basis for the behavior of international organizations and their members. Membership in international organizations can be distinguished according to the principles they profess, including: (1) the principle of universality, explaining the membership of an organization based on equality in terms of state sovereignty, where each organization that adheres to this principle does not distinguish the size or size of a member state of the international organization; (2) the principle of territorial proximity, explaining that the membership of an organization is limited to countries that exist within a particular region or country. Sometimes the proximity of this region is also based on political considerations; and (3) the principle of selectivity, explaining that the membership of an organization is based on the existence of similar cultural backgrounds, religions, historical experiences, and so on (Bowett, 1982).

To strengthen the status of the ASEAN international organization in the international sphere as a public international organization and subject of international law, it is necessary to have a legal personality as a basis for exercising rights and obligations in international law, including filing claims. In the process, international organizations will carry out many actions as subjects of international law, ranging from formulating rules (internal/external), enforcing regulations (law enforcement) and carrying out necessary actions for any violations of regulations that have been made

("implementation of the legal personality of international organizations is referred to as the legalization process"). ASEAN regional organizations can represent their own interests in international forums, so that ASEAN has the capacity to act in an international scope. The birth of the ASEAN Charter which entered into force on December 15, 2008 shows that ASEAN has the status of a legal entity, both nationally and internationally. With the status of a legal entity owned by ASEAN, making ASEAN able to represent its own interests in international forums. The cooperation of ASEAN regional organizations with external parties is based on the principles of ASEAN Unity and Centrality where ASEAN acts as a driving force that initiates the direction of cooperation and still maintains the principle of centrality in pursuing strategic, concrete, and beneficial cooperation results. Cooperation activities, especially in the maritime field, are generally limited to coordinated bilateral patrols, anti-piracy patrols, and search and rescue exercises. The increasing demand for formal partnerships with ASEAN confirms ASEAN's important role as a regional and global influential organization.

## **2. The Influence of International Cooperation Between Member States of Regional Organizations in Indonesia's Maritime Modernization**

International cooperation is a form of relationship carried out by countries with other countries that aims to meet the needs of the people and for the benefit of countries in the world (Agusta, 2017). International relations and cooperation arise because of the different circumstances and needs of each country while the capabilities and potentials possessed are also not the same. This makes a country need its capabilities and needs that exist in other countries. International cooperation will be very important so that arrangements must be maintained and arrangements must be made so that it runs orderly and its benefits can be maximized so that a sense of friendship and mutual understanding between countries grows (Rahman, et.al., 2022).

The nature of international cooperation usually varies, such as harmonization to the strongest international cooperation. Such cooperation occurs when two interests meet and there is no conflict in it. Incompatibility or conflict is inevitable, but it can be suppressed if both parties cooperate in their interests and problems (Suherman, 2003). International cooperation is carried out with at least two main conditions that must be possessed, namely that there is a need to respect the national interests of each member involved. Ongoing communication and consultation are required. The frequency of communication and consultation should be higher than the commitment.

In line with Indonesia as a maritime axis, there are several things that need to be updated to improve the quality and results of cooperation, one of which is through the modernization process. The modernization process is very broad, almost cannot be limited in scope and problems, ranging from social, economic, cultural, political, defense and security aspects. In simple terms, modernization is the process of changing from a traditional way to a new, more advanced way, intended to improve the welfare of society. Uniformity is shaped by modernization and globalization by acculturation of cultural values through technology and commercial. Especially in the maritime field, modernization is needed in the face of the industrial revolution 4.0. In order to welcome the industrial revolution 4.0, mastery of infrastructure and technology must be fast (Chomariyah & Winardi, 2018). As an opening for the country to increase its capacity, the country needs maritime infrastructure development in the dynamics of globalization, especially in economic globalization which also affects maritime modernization (Rochwulaningsih, 2019).

Maritime modernization can also be referred to as state investment. Many countries are investing in the modernization of armed forces, especially maritime forces, with they are upgrading defense equipment, investing in cutting-edge defense technology, replacing aircraft and ships that are 30 or 40 years old, strengthening defense by starting to upgrade its arsenal and joining forces by spurring closer defense ties between major networks. One example of cooperation between member countries is ASEAN member states. Cooperation undertaken in ongoing maritime modernization across the region can contribute to maintaining regional stability provided these countries continue to reach out and strengthen security and defense ties between countries and regional organizations. ASEAN legal personality and legal capacity can be best used to take or take strict legal action in regional dispute resolution as evidence of ASEAN strength as a rules-based organization. Indonesia as an ASEAN member country has characteristics as an archipelagic and maritime country that aims to create security in the region, including maritime security in order to support Indonesia's interests as the World Maritime Axis. Therefore, reliable management of natural resources, border areas and defense is indispensable (Ezeoke, 2012).

As one example of maritime modernization in Indonesia, namely through modernization of weapons that are indispensable as an effort to secure marine resources and ensure that international shipping flows can run safely. The success of foreign policy management that has been carried out so far has given many important roles to

Indonesia. One of the roles and activities of Indonesian diplomacy is manifested in Indonesia international cooperation with regional organizations. For example, Indonesia leadership in regional organizations in ASEAN, as part of its strategy to strengthen the first circle of foreign policy, is also well reflected in the success of expressing ideas to form an ASEAN community formulated in three ASEAN joint action plans, namely the security community, the economic community, and the socio-cultural community.

ASEAN cooperation with external countries, especially in the maritime sector, was realized in the East Asia Summit (EAS) forum. EAS is an open regional forum in the East Asia region which is also a summit forum led by leaders with ASEAN as a driving force in partnership with other member countries. Indonesia has a big agenda in EAS, among others: achieving regional stability and security as the basic capital of cooperation and development in order to achieve increased economic growth and prosperity, increasing maritime cooperation as an implementation of the EAS Statement on Enhancing Regional Maritime Cooperation, Regional Security Architecture, infrastructure development, combating terrorism and extremism, and disaster management efforts. The aim is to develop cooperation in the maritime sector, especially in more comprehensive areas and to maintain stable, safe, peaceful sea areas, and provide welfare for the people of the region., and Sri Lanka (Yani & Monratama, 2018).

Indonesia adheres to an active foreign policy freely and builds international cooperation while still being guided by the principle of being an unequal country that does not make alliances with any country. Nevertheless, Indonesia continues to actively strive in international negotiations to create a peaceful region, both regionally and globally (Zulkifli, 2014). Its implementation is cooperation between countries in the field of defense. Indonesia as part of the international community and its position makes the country's defense not only have a national, but also international dimension. This encourages Indonesia to develop defense cooperation with other countries in supporting the achievement of national interests in the field of defense.

International cooperation in the field of defense is held to build mutual trust between countries with the principles of mutual respect for the sovereignty of other countries, non-interference in internal affairs (non-intervention principles), mutual benefits (beneficial principles), and instruments in preventing conflicts between countries. The cooperation also aims to build the capacity of international relations between countries in the region. International cooperation is developed as one of the instruments of defense diplomacy in realizing national interests in the field of defense

that will be effective through concrete and mutually beneficial measures. In line with this, international cooperation in the field of defense is one of the bridges for the realization of regional security stability.

Bilateral cooperation in the defense sector is intended as an effort to realize defense diplomacy in the maritime field, the implementation of which is more developed to build trust, find peaceful solutions to handling security issues of concern to both sides. Basically, Indonesia is wide open to build bilateral relations with various countries in the world. The need to cooperate with other countries because of interdependence according to the needs of each country. The development of the international relations situation in line with various international cooperation and the development of various aspects including economic rationalism in various regions has brought the influence of increasing socio-economic problems that are more concerned by countries in the world through a series of international cooperation. Likewise, countries in the world are increasingly strengthening the position of global interdependence which seems increasingly evident and the emphasis is on efforts to improve the welfare of a nation based on the principles of mutual trust, mutual respect and respect. Cooperation in the fields of economy, politics, education, culture and security can be built by a country with one or more other countries. Related to maritime modernization, Indonesia has carried out regional international cooperation in the field of maritime defense with various countries in the Southeast Asian Region which can be seen in the table below:

**Table 1. Indonesia's Maritime Cooperation with Southeast Asian Countries**

No	Countries	Forms of Cooperation	Field of Cooperation
1	Indonesia-Filipina-Malaysia	multilateral	a. Regional cooperation and training b. Maritime Security
2	Indonesia-Tiongkok	bilateral	a. Maritime Security b. Maritime diplomacy c. Shipyard Industry Collaboration d. Maritime socio-cultural cooperation
3	Indonesia-Brunai Darussalam	bilateral	defense policy, military cooperation, defense industry and other fields related to defense and security of the region
4	Indonesia-Thailand	bilateral	military cooperation, cooperation in the field of counterterrorism and cooperation in other fields that pose a common threat

5	Indonesia-Myanmar	bilateral	Fight against terrorism, humanitarian problems
6	Indonesia-Laos	bilateral	<ul style="list-style-type: none"> <li>a. cooperation exchange visits between defense and military officials.</li> <li>b. information exchange cooperation in defense cooperation and exchange of views on challenges related to national, regional and international security</li> <li>c. cooperation in capacity building of human resource capabilities, as well as cooperation in other fields that are beneficial to both countries</li> </ul>
7	Indonesia-Vietnam	bilateral	Defense Industry in the Fulfillment of Domestic and Foreign Defense Equipment
8	Indonesia-Singapura	bilateral	Cyber Defense and Maritime Security
9	Indonesia-Jepang	bilateral	<ul style="list-style-type: none"> <li>a. Maritime Security Cooperation</li> <li>b. Infrastructure Development of Disaster Mitigation</li> </ul>
10	Indonesia-India	bilateral	development of marine infrastructure and construction of security and defense systems in the oceans

Source: Primary Data, 2023 (Edited)

Based on table 1 above, it is clear that maritime cooperation carried out by Indonesia with countries in Asia refers to state defense cooperation in the region. Especially Indonesia's cooperation with the Philippines and Malaysia is a multilateral cooperation engaged in regional cooperation and national defense. This collaboration was formalized through the Trilateral Cooperative Arrangement (TCA) Ministerial Meeting, between Indonesia, Malaysia and the Philippines (Indomalphi). Meanwhile, Indonesia's cooperation with China is a bilateral cooperation in the fields of Maritime Security cooperation, Maritime Diplomacy Cooperation, Shipyard Industry Cooperation and Maritime Socio-Cultural Cooperation. Indonesia-China maritime cooperation strongly supports Indonesia's vision to become a world maritime axis country even though not all of this cooperation can be realized (Amalia, 2018). In line with China, Indonesia's cooperation with Brunei Darussalam is also a bilateral cooperation engaged in defense policy, military cooperation, defense industry and other fields related to regional defense and security. This cooperation is incorporated in the 4th Indonesia - Brunei Joint Defense Cooperation Committee 2022. On the other hand, Indonesia also

conducts bilateral cooperation with Thailand and is engaged in military cooperation relations, cooperation in the field of counterterrorism and cooperation in other fields that pose a common threat through the agenda of the ASEAN Defence Ministers' Meeting (ADMM) Retreat. Other bilateral cooperation is also carried out by Indonesia with Myanmar which is engaged in terrorism and overcoming humanitarian problems. Meanwhile, bilateral cooperation between Indonesia and Laos is carried out bilaterally in the fields of a. cooperation in the exchange of visits between defense and military officials, b. cooperation in the exchange of information in the field of defense cooperation and exchange of views on challenges related to national, regional and international security, c. cooperation in capacity building of human resource capabilities, as well as cooperation in other fields that benefit both countries. Cooperation between Indonesia and Vietnam is carried out bilaterally engaged in defense in fulfilling domestic and foreign defense equipment. This cooperation is carried out to increase mutually beneficial defense cooperation between the two countries. On the cooperation between Indonesia and Singapore, defense cooperation carried out bilaterally devoted to cyber defense strengthened in the ASEAN Ministerial Conference on Cybersecurity (AMCC) forum and also maritime security between Indonesia and Singapore which is a relatively prosperous country with a moderate area of waters, has a fairly good ability to manage maritime security in its territory. Cooperation between Indonesia and Japan in terms of maritime economy, the importance of improving maritime safety and security and peace and prosperity of maritime areas. The cooperation between Indonesia and India is manifested in bilateral cooperation engaged in the development of marine infrastructure and the construction of security and defense systems at sea. This is because Indonesia and India are strategic partners in the region and globally as two maritime countries. In the defense industry, security cooperation between the two countries is also carried out because it has regional and international issues, one of which is the Indo-Pacific.

The implementation of international cooperation lies not only in the identification of common goals and methods for achieving them, but lies in the achievement of those goals. Cooperation will also be sought if the benefits obtained are expected to outweigh the consequences to be borne. In accordance with its objectives, international cooperation aims to improve mutual welfare because international cooperative relations can accelerate the process of improving welfare and solving problems between two or more countries. As stipulated in Article 2 paragraph (2) of Presidential Regulation Number 30 of 2019 concerning Indonesia's Membership and Contribution to

International Organizations that Indonesia's membership and contribution to International Organizations aims to a) Indonesia's role and performance in international forums, b) relations between the Government of Indonesia and governments of other countries and c) trust of the international community. So, all contributions of the Indonesian state in international organizations are as much as possible made for the national interest. This is in line with the mandate of Law Number 37 of 1999 concerning Foreign Relations that the implementation of foreign relations activities, both regional and international, through bilateral or multilateral forums, is devoted to national interests based on the principle of free and active foreign policy.

### **3. Responsibilities and Resolutions of Regional International Organizations for International Violations**

International organizations that have met the criteria of the subject of international law are governed by international law. Any act that is not in accordance with international law is a violation of international law which is called an act against the law. In this case, the violated law must be international law. The responsibility of international organizations for violations of municipal laws does not fall within the scope of Draft Articles on the Responsibility of International Organizations (DARIO). The characterization of the actions of international organizations as internationally incorrect is governed by international law.

Inconsistency with international law does not entail any harm to be incurred by the other party. The concept of compensation that requires damages is only part of a violation of international law. Even if the other party does not suffer any losses, if it is not in accordance with international law, it is still against the law. A breach of an international obligation by an international organization is an act of an international organization that is inconsistent with its international obligations, regardless of the origin or character of those obligations.

Such obligations may also arise from the obligations of an international organization towards its members under international law. The breach of international obligations in question includes the actions of the commission and the commission. Commission means the existence of international actions that are inconsistent with international law. Being an omission is a non-commission of an act required by international law as an obligation of an international organization. Acts of violation of international law also apply to actions that cause long-term effects or consequences that

arise in the future. In addition, acts of violation of international law can also be a series of acts, meaning not just one act.

Article 12 DARIO explains: "A breach of an international obligation by an act of an international organization that has no sustainable character occurred at the time the act was committed, even if the effect continues. The violation of international obligations by acts of international organizations having a continuous character extends during the entire period in which such actions continue and remain incompatible with those obligations. A breach of an international obligation that requires an international organization to prevent a particular event from occurring when it occurs and to extend during the entire period in which the event continues and remains incompatible with that obligation."

Each legal subject has the responsibility to carry out its international obligations, so that the rights of other subjects are not violated. International organizations that violate international law or do not fulfill their international obligations shall be held accountable for their unlawful actions, unless there is a legitimate reason to eliminate wrongdoing. Matters that result in accountability of international organizations, namely a) Acts of international organizations, carried out to assist in the occurrence of unlawful acts; b) Direct action by international organizations in violation of international law; c) Coercive measures against other states or international organizations by international organizations; d) Acts of circumvention of international obligations by decree or exaltation to its members; e) Unlawful acts of international organizations that are members of other international organizations (Koh, 2020).

The above actions can be held accountable if in performing such actions, the organization meets the following elements: 1) *Mens Rea*, i.e. the organization knows that the act is unlawful, but still intends to do so; 2) *Actus Reus*, i.e. the law satisfies the element of violation of international law as discussed above; 3) There are no circumstances giving rise to the reason for erasure of the error.

Accountability of international organizations may take the following forms a) Termination of violations and guarantees not to repeat them, b) Reparations for losses caused by such unlawful acts, both material and moral remedies in the form of legal remedies, compensation, and/or gratuities, c) Remedial measures are to re-establish the situation before the occurrence of the error, provided that the remedy is not materially impossible and does not produce a burden which weighs more than the profit made, when compared to the damage, d) Indemnity for any damages incurred including loss

of profit if the obligation is fulfilled, e) compliance, such as acknowledgment of breach, remorse, formal apology or other appropriate means, without any element of contempt to the responsible party, f) Interest payment, i.e. the application of interest calculated from the date that should be the date of repayment of the cost of goods until the obligation to pay is paid in full.

Governments representing a country are interconnected by proposing alternative solutions, negotiations or talks about the problems at hand. Any violation of international law for which there is no reason to eliminate wrong doing, can be held accountable (McCradden, 2008). The parties to the dispute may resolve the dispute through such means: negotiation, investigation, mediation, conciliation, arbitration, court, intermediary, and other amicable means at the choice of the parties. Issues that can arise if conducted in litigation, which court has authority or jurisdiction over unlawful acts committed by international organizations. According to the principle of impunity, international organizations are free from the national jurisdiction of a state. Article 105 paragraph (1) of the UN Charter which states:

"The organization shall enjoy in the territory of its members such privileges and immunities necessary for the fulfilment of its objectives and that its member representatives and officers shall also enjoy such privileges and immunities as are necessary for the independent exercise of their functions in relation to the organization".

The organization and its representatives and bodies enjoy privileges and legal immunity to all its assets and assets, along with all kinds of documents and archives. In addition, representatives of members and bodies of the organization are immune from any legal proceedings, they cannot be arrested and detained. Sometimes UN Organizations assign missions to non-members of the organization.

"In practice, according to information provided by the Secretary-General, the United Nations has the opportunity to entrust missions of an increasingly varied nature to persons who do not hold the status of United Nations officials".

So that the privilege and immunity of the person is questioned in his circumstances. However, the International Court of Justice report states that these rights are granted to mission recipients not from their membership status, but rather from the nature of the mission. On the other hand, broadly speaking in international law, there are two major courts that are often known to the public, including: the International Court of Justice and the International Criminal Court. International courts have the authority to adjudicate cases brought by states. Article 34 paragraph (1) of the Statute of

the International Court of Justice states, "Only States may be parties to a case before the Court". The jurisdiction of the International Criminal Court under article 25 of the Rome Statute is natural persons. Neither the International Court of Justice nor the International Criminal Court has personal jurisdiction over international organizations.

International law recognizes two types of disputes, judicial disputes and political disputes. These differences have logical consequences regarding the settlement model. Settlement of international disputes can be done in two ways, namely in peace and war. Peaceful settlement of international disputes may be carried out as follows: a) Litigation: International arbitration and international courts (through the International Court of Justice and the International Criminal Court), b) Non-Litigation: negotiation, mediation, good service, conciliation, investigation, fact-finding, regional settlement, settlement under the authority of the United Nations (Article 33 of the United Nations Charter). With regard to disputes within the organization internally, in principle legal remedies taken by member states can be resolved in accordance with Article 33 of the UN Charter. Courts that have jurisdiction over international organizations only govern matters of a pacific nature. A special tribunal to regulate comprehensive issues concerning international organizations does not yet exist.

## Conclusion

The ability of regional organizations in the context of Indonesia's maritime modernization is to fulfill legal personality and legal capacity as the legal basis for the birth of legal responsibility for regional international organizations which is manifested in the form of international cooperation. The form of international cooperation between regional organizations and Indonesia in maritime modernization is bilateral and multilateral cooperation. This cooperation is held to build mutual trust between countries with the principles of mutual respect for the sovereignty of other countries, non-intervention principles, beneficial principles and instruments in preventing conflicts between countries and building the capacity of international relations between countries in the region. One of Indonesia's international cooperation in the maritime sector is carried out within the framework of ASEAN, regional and international dialogue forums, cooperation in supporting world peace missions, and cooperation in the framework of humanitarian assistance as stipulated in Presidential Regulation Number 30 of 2019 concerning Indonesia's contribution and membership in international organizations. In conducting cooperation, Indonesia upholds the norms of

cooperation, the principle of regionalism, and ASEAN centrality, especially the joint commitment to find peaceful solutions in every problem that arises in accordance with Article 12 DARIO as a solution to problems between members of the organization.

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