



ARMA Update 27 April 2022

(English Version)

Issuance of Presidential Regulation Number 13 of 2022 concerning the Implementation of Security, Safety, and Law Enforcement in Indonesian Territorial Waters

Introduction

On March 11, 2022, the Government of Indonesia officially passed the Presidential Regulation No. 13 of 2022 concerning the Implementation of Security, Safety, and Law Enforcement in Indonesian Territorial Waters ("**PR 13/2022**"). This regulation was issued to reaffirm security, safety, and law enforcement in order to maintain state sovereignty, legal certainty, and to improve law enforcement in Indonesian territorial waters and Indonesian jurisdictions.

This ARMA Update will discuss the development of regulations regarding the implementation of law enforcement in Indonesian territorial waters and provide a clear picture of the law enforcement mechanisms in the Archipelago Sea of Indonesia and the impact on the existence of other marine law enforcement agencies.

Affirmation of the Authority of the Marine Security Agency (“Bakamla”)

Previously, Bakamla’s existence and its role as the law enforcer of the Indonesian territorial seas were only regulated in the Presidential Regulation No. 178 of 2014 concerning the Marine Security Agency, thus there are very minimal regulations related to Bakamla and its authority over Indonesian territorial waters.

Further, GR 13/2022 provides affirmation regarding Bakamla's position in a series of law enforcement in the Indonesian territorial waters. GR 13/2022 stipulates that Bakamla has been bestowed an important role as the coordinator of the ministries/institutions at international forums in the field of safety, and law enforcement at sea.¹ For example, the implementation of a national patrol plan is divided into 3 types, namely: joint patrols, self-patrols, and coordinated patrols where the implementation of the patrol is held directly by Bakamla by involving relevant agencies and technical agencies.²

Furthermore, GR 13/2022 also provides legal certainty concerning the authority regarding parties who can carry out law enforcement includes the activities of (i) the collection of data and information, (ii) enforcement; and (iii) the submission of the results of the enforcement.³ As we know, the enforcement activity as mentioned in Article 22 (2) c also concerns the law enforcement related to the capture of ships which previously the authority was divided into several agencies

¹ Article 4 (2) of GR 13/2022

² Article 7 of GR 13/2022

³ Article 22 of GR 13/2022



such as the Marine and Coast Guard Unit (KPLP or Coast Guard) under the Ministry of Transportation, Marine Police, and the Directorate-General of Surveillance and Control of Marine and Fishery Resources under the Ministry of Marine Affairs and Fisheries, thus raising questions concerning which institution is authorized in carrying out the act of capturing ships in Indonesian territorial waters. With the ratification of PP 13/2022, all law enforcement actions including the capture of ships in Indonesian territorial waters must now be coordinated with Bakamla as coordinator which then involves relevant agencies and /or technical agencies.⁴

Law Enforcement related to Ship Arrests in Indonesian Territorial Waters

In connection with the act of capturing ships, Article 24 (1) in PP No. 13/2022 also states that the enforcement is carried out in the event that sufficient preliminary evidence is found or caught in an act of criminal nature. Moreover, Bakamla which are authorized to make ship arrests, is obliged to submit the results of the enforcement to agencies that have the authority to investigate and process for further legal proceedings.⁵ However, law enforcement in connection with the arrest of ships related to civil acts or in the event of a maritime claim still does not seem to be strictly regulated in PP No. 13/2022, thus still making the Harbourmaster's authority along with the requirement of a written court order as stipulated in Articles 222 and 223 of Law No. 17 of 2008 concerning Shipping as amended in Law No. 11 of 2020 concerning Job Creation.

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⁴ Article 22 (1) of GR 13/2022

⁵ Article 24 (2) of GR 13/2022