

# Wawasan Nusantara as Maritime Domain Awareness of Indonesia : A Critical Thinking



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## ABSTRACT

*Indonesia considers the archipelagic State regime as Nusantara. Indonesia believes that the waters surrounding the islands considered an integral part of the island and part of its State territory. Indonesia Archipelagic Outlook known Wawasan Nusantara which considered as maritime geopolitical doctrine on addressing the Indonesia interest within the international community interest such as providing sea lanes of communication and addressing the challenges ensuing from conducting activities within its waters and surrounding. Most of the balancing of interest between Indonesia and foreign states (user states) stipulated in the provision of Law of the Sea Convention 1982 (LOSC), but the LOSC is not able to solve all issues. On the other hand, Wawasan Nusantara has been left behind by Indonesian while maritime issues are transforming into different threats. This paper is to providing an overview of historical context of Nusantara and Wawasan Nusantara within international law of the sea. Following the discussion it will also highlight a number of issues arise in contemporary situation, in which Indonesian with Wawasan Nusantara has to conform.*

## KEYWORDS:

*Indonesia, Indonesian Waters, Wawasan Nusantara, Nusantara, Law of the Sea Convention*

## 1. Introduction

*Wawasan Nusantara* is considered as a maritime geopolitical of Indonesia in the first time. It was motivated by a desire to realise its aspirations for national unity, political stability, economic development, social justice, and national security.<sup>1</sup> These aspirations, formerly, were expressed as "*nusantara*", a concept which falls somewhere between the traditional notion of 'islands' and 'archipelago'.<sup>2</sup> The *nusantara*

concept was further developed in the government's maritime policy through "*Wawasan Nusantara*" or the "Archipelagic Outlook", which advocated and stressed Indonesian unity.<sup>3</sup> This maritime geopolitics' is created based on the geographical consideration that Indonesia located in the cross road of the world and Indonesia geographical setting is lifeline of the world economy.

1 Mochtar Kusumaatmadja, "*Wawasan Nusantara*", POLKAM: *Pembangunan di Bidang Politik dan Keamanan* (1982) (in Indonesian), 5-17.

2 The concepts brought to the fore in 1957 when Prime Minister, Mr Djuanda, declared that Indonesia is an archipelagic State.

3 See, Mochtar Kusumaatmadja, above n 1; Munadjat Danusaputro, *Wawasan Nusantara: Dalam Ilmu Politik dan Hukum* (1978) (in Indonesian); Indonesian National Resilience Council, *Pokok-pokok Pengertian dan Sejarah Pengembangan Wawasan Nusantara* (1982) (in Indonesian).

The outlook and opinions of archipelagic States such as *Wawasan Nusantara* are significant in the development of the archipelago concept. Indonesia believes that the waters surrounding the islands should be considered an integral part of the island and part of its total State territory.<sup>4</sup> Thus, Indonesia considers the islands, waters, resources and people as part of a single entity.<sup>5</sup> The relationship between people and territory is important. In certain parts of Indonesia, for example, the sea territory is regarded as more important than any nearby land masses.<sup>6</sup> There is a strong link between human activity and sea territory.<sup>7</sup> The relationship between the land, water and people inhabiting the islands of the archipelago was a justification for Indonesia proposing the archipelagic concept.<sup>8</sup> In the development of the archipelagic concept, the interaction between Indonesia's geographical situation and its economy, history, culture and politics are important.<sup>9</sup> Equally important is the archipelagic State concept enunciated in Article 46 (2) of the LOSC.<sup>10</sup>

Indonesia was active in the negotiation of the archipelagic State concept.<sup>11</sup> So, the *Wawasan Nusantara* idea within the archipelagic state concept was also discussed during the Third United Nations Conference on the Law of the Sea in 1973-1982. Finally, the adoption of the archipelagic State concept in the United Nations Convention on the Law of the Sea (here in after referred to as the LOSC)<sup>12</sup> has given Indonesia the opportunity to address issues of national sovereignty and has granted Indonesia the jurisdiction over living and non-living resources. The LOSC has provided Indonesia with the right to extend its sovereignty and jurisdiction over large ocean areas, particularly Articles 47 to 52 deals with the extent of maritime jurisdiction, exploration, exploitation, conservation and utilisation of marine resources within Indonesia's waters. But, Indonesia has also to fulfil certain obligations as stated in the LOSC, such as maintaining safety of navigation,<sup>13</sup> designating sea lanes for ships and aircraft traffic,<sup>14</sup> and preserving and protecting the marine environment.<sup>15</sup>

4 Munadjat Danusaputro, *Wawasan Nusantara: Dalam Ilmu Politik dan Hukum* (1978) (in Indonesian), 25-74; Mochtar Kusumaatmadja, 'The Concept of Indonesian Archipelago' (1982) 10 *Indonesian Quarterly* 12.

5 Lemhanas (Indonesian National Resilience Council), *Pokok-pokok Pengertian dan Sejarah Pengembangan Wawasan Nusantara* (1982), (in Indonesian), 3; Nugroho Wisnumurti, 'Indonesia and the Law of the Sea' in Choon-ho Park and Jae Kyu Park (eds), *The Law of the sea : problems from the East Asian perspective* (1987), 392; Hasjim Djalal, *Indonesia and the Law of the Sea* (1995), 336.

6 Hope Sebastian, *Outcasts of the Islands: The Sea Gypsies of South East Asia* (2002).

7 There are many Bajo tribes or *Orang Suku Laut* (people of the sea) in Indonesia who lived floating at the sea. See, R H Djohani, 'The Bajo, Future Park Managers in Indonesia?' in M J Parnwell and R L Bryant (eds), *Environmental Change in South East Asia, People Politics and Sustainable Development* (1996); Cynthia Chou, *The Orang Suku Laut of Riau, Indonesia: The Inalienable Gift of Territory* (2009); Andi Hajramurni, 'Bajo People losing their Identity', *The Jakarta Post* (Jakarta), 12 September 2009.

8 Mochtar Kusumaatmadja, 'The Legal Regime of Archipelagos and Supplementary Remarks' in Lewis Alexander, M. (ed), *The Law of the Sea: Needs and Interests of Developing Countries* (1973) 116.

9 Hasjim Djalal above n 5, 342; Hiran W Jayewardene, *The Regime of Islands in International Law* (1990); Hasjim Djalal, *Indonesia and the Law of the Sea* (1995), 103-90; Dale Andrew, 'Archipelagos and the Law of the Sea: Island Straits States or Island-Studded Sea Space?' (1978) 2(1) *Marine Policy* 46, 47.

10 Article 46 (2) of the LOSC states that an "archipelago" means a group of islands, including parts of islands, interconnecting waters and other natural features which are so closely interrelated that such islands, waters and other natural features form an intrinsic geographical, economic and political entity, or which historically have been regarded as such."

11 See, Mochtar Kusumaatmadja, *Indonesia dan Perkembangan Hukum Laut Dewasa ini* (1977) (in Indonesian); Munadjat Danusaputro, *Tata Lautan Nusantara: Dalam Hukum dan Sejarahnya* (1980) (in Indonesian); Hasjim Djalal, *Perjuangan Indonesia di Bidang Hukum Laut* (1979) (in Indonesian).

12 *United Nations Convention on the Law of the Sea*, opened for Signature 10 December 1982, 1833 UNTS 3 (entered into force 16 November 1994) (here in after LOSC).

13 Articles 21, 52, LOSC.

14 Article 53, LOSC.

15 Article 192 (Part XII), LOSC.

The LOSC regulates, among other things, maritime marine resources, marine environment, science, technology, and dispute settlement relating to the law of the sea. One of the concepts introduced by the LOSC is the archipelagic State concept.<sup>16</sup> Under this concept, a State may be considered as an archipelagic State if the State is constituted wholly or partly by one or more archipelagos, which may include other islands.<sup>17</sup> Before the LOSC, lengthy discussions on archipelago issues took place at the 1930 Hague Conference on the Codification of International Law<sup>18</sup> particularly regarding the geographical and ordinary understanding of the term 'archipelago'.<sup>18</sup>

From a geographical point of view, an archipelago is a group of islands which forms a single unit; from an ordinary point of view, an archipelago is a body of water interspersed with many islands.<sup>20</sup> The LOSC defines an 'archipelago' as "a group of islands, including parts of islands, interconnecting waters and other natural features which are so closely interrelated that such islands, waters and other natural features form an intrinsic geographical, economic and political entity, or which historically have been regarded as such."<sup>21</sup> Within archipelagic waters, a archipelagic state has sovereignty, but this sovereignty is subject to

the Convention and to other rules of international law.<sup>22</sup>

This paper focuses on the establishment of *Wawasan Nusantara* within international law as maritime domain awareness of Indonesia. The paper provides an historical overview of the development of the concept of the Archipelagic State which influenced by Indonesia interest and as archipelagic outlook. The paper also discusses the consequences and challenges of Indonesia being an archipelagic State within the framework of navigational rights and freedoms under international law. It also examines the responsibilities of archipelagic states/Indonesia with respect to accommodate the international community. Finally, the paper will demonstrate how *Wawasan Nusantara* could become a maritime domain awareness and able to face maritime challenges nowadays.

## 2. Wawasan Nusantara as the Indonesian Archipelagic Outlook

In traditional international law, territory is considered simply as land mass or islands, not with groups of islands.<sup>23</sup> The traditional law of the sea, when applied to archipelagos, encountered great difficulty and produced inadequate results.<sup>24</sup> The sea was considered *res nullius* where coastal States could only exercise

16 Part IV, LOSC

17 Article 46 (a), LOSC.

18 League of Nations, Acts of the Conference for the Codification of International Law, held at the Hague from March 13<sup>th</sup> to April 12<sup>th</sup>, 1930.

19 See, D P O'Connell, 'Mid-Ocean Archipelagos in International Law' (1971) 45 *British Year Book of International Law* 1;

20 *Cambridge Advanced Learner's Dictionary* (2nd ed, 2005), 56; Mochtar Kusumaatmadja, 'The Legal Regime of Archipelagos and Supplementary Remarks' in Lewis M Alexander (ed), *The Law of the Sea: Needs and Interests of Developing Countries* (1973) 116; Dale Andrew, 'Archipelagos and the Law of the Sea: Island Straits States or Island-Studded Sea Space?' (1978) 2(1) *Marine Policy* 46; Jens Eversen, 'Certain Legal Aspects concerning the Delimitation of the Territorial Waters of Archipelagos' (Paper presented at the UN Conference on the Law of the Sea, Official Records, Geneva, 1958), 300, 302. Eversen pointed out that geographical features or geographical realities of the archipelago should be used in deciding whether a group of islands and the waters separating them could be treated as a single unit.

21 Article 46 (b), LOSC.

22 Articles 2 (1), (3) and 49, LOSC.

23 D P O'Connell, 'The Juridical Nature of the Territorial Sea' (1971) 45 *British Year Book of International Law*, 304-05; Bernard H Oxman, 'The Territorial Temptation: A Siren Song at Sea' (2006) 100 *American Journal of International Law* 21, 830-31.

24 See, D P O'Connell, 'Mid-Ocean Archipelagos in International Law' (1971) 45 *British Year Book of International Law* 1; Hiran W Jayewardene, *The Regime of Islands in International Law* (1990).

limited sovereignty.<sup>25</sup> However, over the passage of time, the law of the sea has developed to accommodate archipelagic issues.

The Republic of Indonesia is the largest archipelagic State in the world, consisting of 17,504 islands.<sup>26</sup> Indonesia extends along the equator, straddles the continents of Asia and Australia, and is flanked by the Indian and Pacific Oceans. The territory of the Republic of Indonesia stretches from Pulau Rondo off the northern tip of Sumatra in the west longitude 94° 58' East to Merauke, Papua in the east longitude 141° East and from Pulau Miangas in the north to Pulau Dana in the south. With an overall distance of more than 1,900 kilometres from east to west, Indonesia covers an area as vast as Europe; however, nearly 80 per cent of the area between the abovementioned geographical extremities is made of seas.

History of *Nusantara* can be traced back from the first century AD, there has been continuous trade among people on the Indonesian archipelago, India and China.<sup>27</sup> Trade created close relations in many areas such as religion, arts, and government.<sup>28</sup> The fact that Indonesia is located halfway between India and China has been an important factor in the formation of Indonesian culture.<sup>29</sup> Indian and Chinese traders made stop-overs to replenish their supplies of fresh water and food and Indonesians visited India and brought back

Hinduism. In port cities in particular, Chinese and Indian traders influenced the local Indonesian culture.<sup>30</sup> Evidence of Indian and Chinese cultures and religions can still be found in certain parts of Indonesia.<sup>31</sup>

According to Caldwell,<sup>32</sup> Indonesia has a unique ability to synthesise different ingredients, accepting the new without discarding the old, absorbing and blending rather than substituting. At the same time the sea barrier between the islands has resulted in the fact that each island developed uniquely, shaping and moulding its own cultures. The variety of Indonesian cultures can be found in many places and spread across the entire archipelago, for example traditional music instruments can be found in many islands, batik can be found almost in all islands and ethnics.

The independence movement began long before its final success. In 1629, Sultan Agung, the King of Mataram, sent troops to attack the Dutch in Batavia.<sup>33</sup> There were several revolts and uprisings which took place in Aceh, Bali, Java and many other parts of the archipelago. The movements failed because the Dutch chose local rulers and used them to control areas. During that time, the Dutch allowed some young Indonesians, who had studied in Netherlands, to handle administrative jobs. But the students had also studied political movements and they proceeded to establish a political party.<sup>34</sup> The

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25 Francis Ngantcha, *The Right of Innocent Passage and the Evolution of the International Law of the Sea* (1990), 15.

26 Originally, Indonesia had 17,508 islands based on the publication of Dishidros TNI AL (Indonesian Hydro-Oceanographic Office) on Figures of Indonesian Territory, however, after the Republic of Timor Leste gained its independence in 1999, includes two islands (Arturo and Yako Islands) and the decision of the International Court of Justice (ICJ) on the sovereignty over Sipadan and Ligitan Islands in 2002, where both islands were transferred to Malaysia.

27 Rosemary Brissenden, 'Pattern of Trade and Maritime Society before the Coming of the Europeans' in Elaine McKay (ed), *Studies in Indonesian History* (1976), 65-71.

28 Donald Wilhelm, *Emerging Indonesia* (1980), 10.

29 RPHardjowardojo, 'Basic Cultural Influences' in Elaine McKay (ed), *Studies in Indonesian History* (1976), 3

30 V J H Houben, 'Trade and State Formation in Central Java 17th-19th Century' in G J Schutte (ed), *State and Trade in the Indonesian Archipelago* (1994)

31 Donald Wilhelm, above n 28, 10.

32 Malcolm Caldwell, *Indonesia* (1968), 33.

33 Ibid, 18; Donald Wilhelm, above n 28, 15.

Youth Pledge of 1928 expressed the ideals of one nation, one language, and one motherland or *Tanah air*.<sup>35</sup> It was the first political manifestation of the concept of national unity and was inspired by a nationalist movement which aimed to lead the national struggle for independence. In 1942, the Japanese came to the archipelago and took over all systems of government. They set up some regulatory such as allowing the use of the Indonesian flag, the national anthem and Bahasa Indonesia as the national language. But, overall the Japanese treated the native population worse than the Dutch.<sup>36</sup> People were starving and there was famine everywhere. The Japanese established Indonesian officer armies and created quasi-military youth organisations, which later formed the core of the Indonesian armed forces.<sup>37</sup>

Indonesia declared its independence on 17 August 1945, two days after Japan surrendered to the Allies.<sup>38</sup> The victorious powers, however, allowed the Dutch to return and reclaim its former colony, Indonesia, which had been occupied by Japan since 1942. In order to defend its independence, the Indonesian people had to fight better armed and trained Dutch soldiers in a war for its independence. The poorly armed and trained Indonesian people were able to overcome the professional Dutch military forces because the Indonesian forces

were fully supported by the native population<sup>39</sup> throughout the lengthy guerrilla war.<sup>40</sup> The revolutionary experience gave the nation a strong sense of self-confidence in its ability to defend the country against a hostile foreign power. In addition, the experience shaped Indonesia's defence and security outlook, focusing it on the unity of the nation. The notion of national unity, known as "*Wawasan Nusantara*" or the 'Archipelagic Outlook or Principle' unites the Indonesian archipelago into an indivisible "*Tanah Air*", or "Place of Land and Water for all Indonesians."<sup>41</sup> The archipelagic outlook clearly envisages the islands and the surrounding seas as a single entity.

The *Wawasan Nusantara* doctrine was reflected in Indonesia's geopolitical concern for its maritime territory. There were three catalysts for this doctrine.<sup>42</sup> First, the Indonesian elite started to realise that Indonesia needed a new doctrine to integrate the maritime territory into its land territory as a single entity. Second, the location of Indonesia at the cross-roads of world trade puts Indonesia in both an advantageous and vulnerable position. Third, there was heightened concern surrounding foreign maritime passages within the archipelago. The last concern related specifically to the activities of the Dutch warships while Indonesia campaigned for the transfer of Papua (Irian Jaya)<sup>43</sup> from Dutch

34 There were many political parties and student organisations established by young professionals and students of Indonesia, such as Indische Party, Budi Utomo, Sarekat Islam, Partai Komunis Indonesia, Indonesian Alliance of Students, Jong , Jong Jawa, Jong Ambon, *Indonesia, Early Political Movements. Library of Congress Country Studies: "The Growth of National Consciousness"*.

35 "*Tanah Air*" means "Motherland" in Bahasa Indonesia. See, Indonesian National Resilience Council, *Pokok-pokok Pengertian dan Sejarah Pengembangan Wawasan Nusantara* (1982) (in Indonesian).

36 Robert van Neil, 'From Netherlands East Indies to Republic of Indonesia 1940-1945' in Harry Aveling (ed), *The Development of Indonesian Society* (1979) 106, 162-63.

37 Harold Crouch, 'The Trend to Authoritarianism: The Post 1945 period' in Harry Aveling (ed), *The Development of Indonesian Society* (1979) 165, 168; Rosihan Anwar, *Musim Berganti: Sekilas Sejarah Indonesia, 1925-1950* (1985), (in Indonesia), 124-129.

38 Japan surrendered to the Allied on 15 August 1945, with the surrender documents finally signed aboard the deck of the American battleship USS Missouri on September 2, 1945. See, Mark Donnelly, *Britain in the Second World War* (1st ed, 1999).

39 Nugroho Notosusanto, *The National Struggle and Armed Forces in Indonesia* (Second ed, 1980), (in Indonesia), 6.

40 The defence system which focused on the unity of armed forces and the people is called *Hankamrata* (Total People's Defence). The armed forces would act as a core to mobilise the entire population against the enemy.

41 Munadjat Danusaputro, above n3, 31.

42 Lemhanas (Indonesian National Resilience Council), above n 4, 4-15.

43 Papua is the current official name of the territory known successively as Netherlands New Guinea, West New Guinea, West Irian and Irian Jaya. The Name of Papua will be used throughout for consistency, except for the name of Treaty.

to Indonesian rule from 1950 to 1962.<sup>44</sup>

Having considered the location of Indonesia, the *Wawasan Nusantara* doctrine developed along with understanding of Indonesia's archipelagic outlook. Its geographical setting came to be considered with other aspects, such as demography, natural resources, geographical configuration, (known *tri gatra*/three aspects) ideology, politics, economics, social and cultural aspects, and defence and security (known *panca gatra*/five aspects). Those aspects were known as "*asta gatra*" which means 'eight aspects',<sup>45</sup> which the first *gatra* (aspect) is geographical setting.<sup>46</sup>

The *Wawasan Nusantara* doctrine promoted both an inward and outward looking perspectives.<sup>47</sup> At a national level (that is, the inward-looking perspective), it emphasizes the notion of Indonesia as one political, economic and security entity. Internationally, (that is from an outward-looking perspective), the promotion of *Wawasan Nusantara* is designed to advance the security of Indonesian territorial waters.<sup>48</sup> The *Wawasan Nusantara* doctrine would go on to provide substance to Indonesia's perceptions and interests in maritime matters in subsequent years, regarding maritime boundaries, navigational regimes and managing natural resources. In these maritime zones, Indonesia has sovereignty, which is the same as the sovereignty over land and air space.

## 2.1. Development of Indonesia's Maritime Policy

The arrival of the European powers, with their ambitions for the expansion of their overseas colonial empires, brought with them the concept of *mare clausum*. However, the Dutch interest in the East Indies, supported by the legal doctrine of *mare liberum* developed by Grotius and others, necessitated advocacy of the principle of freedom of the high seas, in contradiction to the Portuguese and Spanish views on the matter.<sup>49</sup> With the gradual achievement of supremacy by the Dutch in the East Indies during the 18<sup>th</sup> and 19<sup>th</sup> centuries, the original customary law position came to be restored in the form of Dutch practice.<sup>50</sup> The Dutch Government applied regulations which conformed to the general practices of the law of the sea at that time to regulate the territorial sea in the Dutch East Indies, for example, in 1893 there was Ordinance Number 261 regulating pearl fishery in the territorial sea of the Netherlands Indies.<sup>51</sup> Second, in 1902, there was Ordinance Number 4 regulating pearl fishery within the distance of no more than three nautical miles off the coasts of the Netherlands Indies.<sup>52</sup> Third, in 1905, the Government of Dutch East Indies declared Ordinance Number 436, amending the Ordinance Number 4 of 1902 defines the territory to include rocks, reefs and

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44 In spite of the fact that the Dutch Government did not recognise the independence of Indonesia, the Dutch still ruled in West Papua (Irian Jaya) until 1962. In that time, Dutch Navy always passed through the Java Sea and waters surround the Indonesian islands.

45 "*Astra gatra*" / aspect is divided into two categories namely three "*gatra*" / aspects and five "*gatra*" / aspects. The three aspects known as tangible aspects consist of Indonesia's geographical position, natural resources, and population. The five "*gatra*" known which are the intangible aspects consist of ideology, politic, economic, socio-cultural, defence and security.

46 Indonesian National Defence Council, above n 4, 5-16; Munadjat Danusaputro, above n 3, 10-27.

47 Lemhanas (Indonesian National Defence Council), above n 4, 7.

48 Ibid, 9.

49 CH Alexandrowicz, *An Introduction to the History of the Law of Nations in the East Indies* (1967), 64-65.

50 Ibid, 65. He hypothesized that Grotius apparently derived support for his treaties from the original Asian practice.

51 "John G. Butcher, 'Becoming an Archipelagic State: The Juanda Declaration of 1957 and the "Struggle" to Gain International Recognition of the Archipelagic Principle' in Robert B Cribb and Michelle Ford (eds), *Indonesia Beyond the Waters Edge: Managing an Archipelagic State* (2009) , 30.

52 Ibid, 31.

banks exposed at the low water line.<sup>53</sup>

During the colonial era, the territorial waters of Indonesia inherited from the Dutch East Indies were fixed generally at three nautical miles from the coast, as stated in Article 1(1) of the *Territoriale Zee en Maritieme Kringen Ordonatie* of 1939.<sup>54</sup>

Consequently, Indonesia consisted of so many units of islands, each being separated from the others<sup>55</sup> by so-called high seas as shown in Figure 2-Illustrative Maps of the Indonesian Territory Based on the TZMKO 1939. After independence, this regulation still applied based on the text of the Proclamation of 17 August 1945 which stated that "all existing regulations and administrative ordinance in as much as they are not incompatible with the transfer of sovereignty remain in force".<sup>56</sup>

The three nautical miles regulation was a long way from the objective of the independence movement, which was to unite Indonesia. This made it very difficult for the government to



Figure . Illustrative Maps of the Indonesian Territory Based on the TZMKO 1939<sup>57</sup>

execute various functions of the government<sup>58</sup>. Along with that, the three nautical miles regulation placed Indonesia in a fragile situation in terms of territorial integrity, since the presence of pockets of open sea gave opportunity to hostile external elements which used the cover of the high seas to support local political unrest on the islands.<sup>59</sup>

## 2.2. Development of the Nusantara

Between 1945 and 1957 there were many elements which combined to highlight the need for uniting the territory of Indonesia. These elements included growing unrest in regions

53 Ibid,32.

54 Ordinance of 18 April 1939 on the Territorial Sea and the Maritime Domain, 1939 Staatsblad 442 (Netherlands Indies), in Indonesia Naval Headquarters, *Himpunan Peraturan di Bidang Maritim* (1997) (in Indonesian).

55 Jack Draper, "The Indonesia Archipelagic State Doctrine and Law of the Sea: "Territorial Grab" or Justifiable Necessity?" (1977) 11(1) *International Lawyer* 20, 145.

56 The text of the Indonesian Proclamation of Independence 1945 and Article II of Additional Regulation of The Constitution of Indonesia 1945, UUD 1945 (*the 1945 Constitution*) provides that colonial law still applies unless specifically repealed under the 1945 Constitution. So this "transitional Article" was made a ground for validity in subsequent regulations.

57 Department of Foreign Affairs, *Indonesia 1963: Looking Back over the Years* (1963). The map could be found in Bakosurtanal, *Menata Ruang Laut terpadu* (2002), (in Indonesian). This map has been presented by Deputy 1, Coordinating Ministry of Maritime Affairs during his presentation on history of archipelagic state concept, Yogyakarta 29 November 2016.

58 Munadjat Danusaputro, above n 3, 53. See Hasjim Djalal, *Perjuangan Indonesia di Bidang Hukum Laut* (1979), (in Indonesian), 61

59 During the period 1950-1960 there were much political unrest as many islands wanted to become independent because the central government did not have enough power to control all the islands. See Boer Mauna, *Hukum Internasional* (1987), (in Indonesian), 411.

outside Java, army commanders in a number of regions declaring martial law, Sukarno declaring martial law over the whole country, Sukarno setting up a "business cabinet" headed by Djuanda Kartawidjaja, labour unions taking over Dutch enterprises, and tensions between Indonesia and the Netherlands over West New Guinea escalating.<sup>60</sup> In addition, in 1955 the Philippines submitted a *note verbale* to the United Nations which stated that "all waters around, between and connecting different islands belonging to the Philippines Archipelago, irrespective of their width or dimension, are necessary appurtenances of its land territory, forming an integral part of the national or inland waters, subject to the exclusive sovereignty of the Philippines".<sup>61</sup> The Philippine position thus supported the Indonesian position.

On 13 December 1957, the Indonesian Prime Minister Djuanda Kartawidjaja made a Declaration to override the colonial maritime territorial regulations in favour of a completely new territorial concept. The territorial concept known as the *Djuanda Declaration* asserted a radical approach to maritime claims:

The Government declares that all waters surrounding, between and connecting the islands constituting the Indonesian State, regardless of their extension or breadth, are integral parts of the territory of the Indonesian State and therefore, parts of the internal or national waters which are under the exclusive sovereignty of the Indonesian State. [...] The delimitation of the territorial sea (the breadth of which is 12 nautical miles) is measured from baselines connecting the outermost points of the

islands of Indonesia.<sup>62</sup>

The Djuanda Declaration stated that Article 1(1) of the colonial maritime ordinance (TZMKO) was no longer in accord with the needs of an independent Indonesia. The Declaration clearly stated the policy of the Republic in relation to its territorial integrity and protection of natural resources. Later, the Government established the new territorial concept in national legislation Act Number 4 of 1960 on Indonesian Waters.<sup>63</sup> The new law provided more details on the nature and extent of Indonesian waters compared to the Djuanda Declaration. Article 1 of the Act provided that the territorial sea extends 12 nautical miles outward from the baselines drawn around the outermost islands of the Indonesian archipelago. All waters enclosed by the baselines declared in Article 2 were regarded as internal waters. Article 3 provided that the government may regulate the innocent passage by means of executive regulation. Finally, Article 4 stated that the new law revoked the contradictory provisions of the Dutch colonial ordinance.

Having considered the interest of user States in navigational matters, the Government of Indonesia also took into account the innocent passage of foreign vessels in Indonesian waters by permitting such passage so long as it was not prejudicial to the security of Indonesia. The innocent passage regime was further implemented through Government Regulation Number 8 of 1962 on Innocent Passage of Foreign Vessels in Indonesian Waters. The regulation clarified the conditions under which Indonesia would allow innocent passage. However, it seemed to contain some significant deviations from the innocent passage recognised by the

60 Dino Patti Djalal, *The Geopolitics of Indonesia's Maritime Territorial Policy* (1996), 84-88.

61 Jens Eversen, 'Certain Legal Aspects concerning the Delimitation of the Territorial Waters of Archipelagos' (Paper presented at the UN Conference on the Law of the Sea, Official Records, Geneva, 1958), Vol.1; Barbara Kwiatkowska, 'The Archipelagic Regime in Practice in the Philippines and Indonesia-Making or Breaking International Law?' (1991) 6(1) *International Journal of Estuarine and Coastal Law* 1, 4-5.

62 Djuanda Declaration in Michael Leifer, *International Straits of the World: Malacca, Singapore and Indonesia* (1978). See also English version in M Whiteman, *Digest of International Law* (1965), 281.

63 This Act latter has been amended with Act Number 6 of 1996 on *Indonesian Waters* (State Gazette Year 1996 No. 73, Supplementary State Gazette No. 3647).

international community, because there were many restriction especially permit requirements for research vessels and prior notice by naval and other vessels of foreign States.

The Indonesian archipelagic State concept elicited strong opposition from maritime powers<sup>64</sup> such as the United States,<sup>65</sup> France, Netherlands, the United Kingdom<sup>66</sup> and Australia.<sup>67</sup> These States believed that the new territorial limit was invalid and would jeopardise world seaborne trade.<sup>68</sup> On the other hand, the Soviet Union and China supported the archipelagic concept. According to Hasjim Djalal, their endorsement was because Moscow and Beijing dedicated their naval forces for coastal defence, so they had no compelling strategic stake in the use of Indonesia's seas.<sup>69</sup>

The archipelagic State concept was raised in the First United Nations Conference on the Law of the Sea (UNCLOS I) in 1958 but it was not recognised. The joint proposal submitted by the Philippines and Yugoslavia concerning archipelagos was overcome.<sup>70</sup> In UNCLOS II in 1960,<sup>71</sup> held a few months after Indonesia's made a unilateral action to enact the Act Number 4 of 1960 on Indonesian waters, the question of the precise limits of the territorial sea and the special problem of archipelagos and island groups was

also left unsettled. In late 1961, the Indonesian Government passed legislation ratifying the Geneva Conventions on the high seas,<sup>72</sup> continental shelf<sup>73</sup> and fishing,<sup>74</sup> without mentioning of the Convention on the Territorial Sea and the Contiguous Zone.<sup>75</sup> However, the Secretary-General of the United Nations refused to accept the ratification of Indonesia because the Geneva Conventions did not allow States to make a reservation when ratifying.<sup>76</sup>

A further Indonesian statement on the archipelagic State doctrine appeared in the form of a Presidential Decree Number 103 of 1963 on Declaration of Indonesian Waters to be the Maritime Domain. The Decree was meant to overcome the discrepancy between the colonial ordinances and those, which had revoked the decrees of the colonial Governor-General concerning the Maritime Domain.

The other element related to the archipelagic State doctrine was Presidential Decree Number 16 of 1971 provided further explanation of the requirements of foreign vessels' transiting through Indonesian Waters. The Decree created two types of permits: "sailing permits" and "security permits".<sup>77</sup> The sailing permits applied to all non-military foreign vessels, except non-military vessels engaged in

64 DPO'Connell, above n 19, 39.

65 The verbatim statement by the US Delegation could be found in: *United Nations Conferences on the Law of the Sea: Official Records, First Conference, 1958 2-3*, William S. Hein & Co 2<sup>nd</sup> edition, New York, 1980.

66 The United Kingdom stated that the term "archipelago" applies only to a small, compact group of islands, while the straight baseline principle applies only to sharply indented coasts and fringes of islands. NAA: A 1838,696/2/5 Part I.

67 Sahono Soebroto, Sunardi and Wahyono, 'Konvensi PBB tentang Hukum Laut', *Sinar Harapan* (Jakarta), 1983, vi, (in Indonesian). France submitted a formal protest on 8 January 1958; Netherlands on 7 January 1958; On 3 January 1958, Britain notified that the new territorial limit was invalid and thus not applicable to its citizens, ships, and airplanes. Australia followed suit on 3 January 1958.

68 Anonymous, 'The New Piracy', *The Times* (London), 18 December 1957, 9; Anonymous, 'Singapore protest', *The Times* (London), 16 December 1957, 8.

69 Hasjim Djalal, above n 58, 63.

70 Mohamed Munavvar, *Ocean States: Archipelagic Regimes in the Law of the Sea* (1995), 81-82.

71 The Second United Nations Conference on the Law of the Sea, 1960.

72 *United Nations Convention on the High Seas*, 450 UNTS 11.

73 *United Nations Convention on the Continental Shelf*, 449 UNTS 331.

74 *United Nations Convention on Fishing and Conservation of the Living Resources of the High Seas*, 559 UNTS 285.

75 Act Number 19 of 1961 on Ratification of Three 1958 Geneva Conventions on the Law of the Sea (State Gazette Year 1961 No. 276).

76 The letter of Secretary General No.LE 139 (1-2) dated 12 September 1961.

77 Article 1, Presidential Decree Number 6 of 1971.

activities which may affect Indonesian security, such as hydrographic surveys.<sup>78</sup> Non-military vessels engaged in such activities and all foreign military vessels were required to obtain a "security clearance".<sup>79</sup> Non-military vessels engaged in sensitive activities required both a "sailing permit" and a "security clearance". Unfortunately, this President Decree is not regulated in the government regulations.

### 3. The Importance and Challenges of Indonesian Waters

Indonesia, as the world's largest archipelagic State, consists of 17,504 islands,<sup>80</sup> with an approximate 7.73 million km<sup>2</sup> of sea territory made up of substantial living and non living natural resources. Indonesia and the international community have opposing interests.<sup>81</sup> The international community as user States argue that Indonesia has to leave open all routes normally used for international navigation and guarantee no interference with such passage.<sup>82</sup> On the other hand, Indonesia wishes to secure its national interests. In this respect, the preservation of the island group's

unity is of key importance, along with jurisdiction over intervening waters and seabed areas. Thus, in certain cases, these interests overlap and often create conflict between Indonesia and the international community. Since Indonesian waters have many sea lanes of communication, and are therefore vital to world trade<sup>83</sup> and military movement, Indonesia's maritime policy regarding navigation will always be of interest to the international community.<sup>84</sup> The way Indonesia look into her national interest and balancing the international community interest known as Indonesian Maritime Domain Awareness known and reflected into *Wawasan Nusantara* Doctrine.

Indonesian waters are porous and contain critical sea lanes of communication for sea-borne trade, naval movement, and other maritime interests.<sup>85</sup> In Indonesian waters, there are at least six choke points, comprising the Malacca Strait, Singapore Strait, Sunda Strait, Lombok Strait, Ombai and Wetar Straits; all of which are used for international navigation.<sup>86</sup> While Indonesia has strategic interests in commerce, peace, stability and security in the region,<sup>87</sup> it must also address potentially

78 Article 3, Presidential Decree Number 6 of 1971.

79 Article 2, Presidential Decree Number 6 of 1971.

80 Originally, Indonesia had 17,508 islands based on the publication of Indonesian Hydro-Oceanographic Office on Figures of Indonesian Territory; however, after the Republic of Timor Leste (hereinafter referred to as East Timor) gained its independence, two islands (Arturo and Yako Islands) were ceded to East Timor. Further to this, the International Court of Justice in 2002 decided that Sipadan and Ligitan Islands should become part of Malaysia. Indonesian Navy Hydrographic Office, 'Figures of Indonesian Territory' (Indonesian Navy Hydrographic Office, 2003); Biro Pusat Statistik (Bureau of Central Statistic/BPS) of Indonesia <[https://www.bps.go.id/website/pdf\\_publicasi/Statistik-Indonesia-2016--rev.pdf](https://www.bps.go.id/website/pdf_publicasi/Statistik-Indonesia-2016--rev.pdf), Statistical Yearbook of Indonesia 2016.

81 Mohamed Munavvar, *Ocean States: Archipelagic Regimes in the Law of the Sea* (1995), 8.

82 Interference to the passage will lead to time delay and extra costs for maritime transport. See, Kazumine Akimoto, 'Re-routing Options and Consequences' in Andrew Forbes (ed), *The Strategic Importance of Seaborne Trade and Shipping: A Common Interest of Asia Pacific*, Australian Maritime Affairs (2002) vol 10, 113.

83 The world shipping market is broadly divided into two categories, namely: bulk shipping and container shipping. A bulk carrier is a ship used to transport crude oil, iron ore and other bulk cargoes in large volumes. Cargoes are divided into two categories which are dry cargo and liquid cargo.

84 Reynolds B Peele, 'The Importance of Maritime Chokepoints' (1997) 27(2) *Parameters* 14, 70.

85 Indonesian Navy Doctrine in Markas Besar TNI AL (Indonesian Navy Headquarters), *Eka Sasana Jaya* (1st ed, 2004) (in Indonesian), 3.

86 Ibid, 9; Lewis M Alexander, *Navigational Restrictions within the new LOS context: Geographical Implications for the United States* (1986), pp. 289-297; Michael Leifer, *International Straits of the World: Malacca, Singapore and Indonesia*, *International Straits of the World* (1978), 6-11.

87 Geography and Strategy setting could be read further in John H Noer and Gregory David, *Chokepoints: Maritime Economic Concerns in Southeast Asia* (1996); James E Toth, *Military Strategy Note: Strategic Geography* (1995).

negative effects associated with international navigation, such as marine pollution, degradation of marine resources and maritime criminal activities.<sup>88</sup>

### 3.1. Economic Implications

David Ricardo has pointed out that States would benefit if they could use comparative advantages in the production and export of certain goods and if the transport costs of such exports do not exceed the margin.<sup>89</sup> Seaborne trade represents the most important mode of transport as it shortens the usually long distances between areas of the world where production costs differ significantly while also offering efficiency through the low cost of such transport. This is the reason that seaborne trade has become centrally important to the international economic system and a source of wealth. For example, in 2015, according to the United Nations Conference on Trade and Development (UNCTAD), the world economy embarked on a slow moving recovery led by uneven growth in developed economies and a slowdown in developing countries and economies in transition. In 2014, the world gross domestic product (GDP) increased marginally by 2.5 per cent, up from 2.4 per cent in 2013. Meanwhile, world merchandise trade increased by 2.3 per

cent; this is down from 2.6 per cent in 2013 and below the pre crisis levels.<sup>90</sup>

According to Baldwin, the key seaborne trade trends for the Asia-Pacific over the next 10 to 20 years will be based on energy fuels and mineral exports, value-added manufactures, and agricultural produce, including grains and

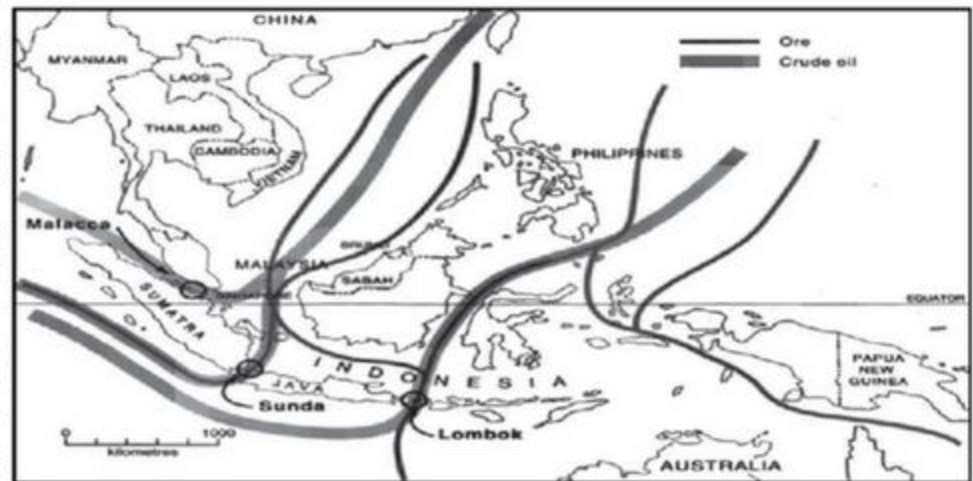


Figure 2. Routes of Iron and Ore Carrier and Tankers in the Asia-Pacific<sup>92</sup>

meat.<sup>91</sup> These commodities will be transported to other countries by sea and most of them will pass through Indonesian waters. Thus, Indonesian waters have a strategic impact on the economy of not only the region, but also the entire world, especially on seaborne trade, as can be seen in figure 2.

According to an UNCTAD report, energy is one of the most important drivers of economic development and is a key determinant for the quality of people's daily lives.<sup>93</sup> In the International Energy Outlook 2008 projections,

88 Markas Besar TNI AL (Indonesian Navy Headquarters), above n 97, 2-15.

89 David Ricardo, *On the Principles of Political Economy and Taxation* (3rd ed, 1817), 89-91, cited by Philipp Wendel, *State Responsibility for Interferences with the Freedom of Navigation in Public International Law* (2007), 13.

90 UNCTAD Secretariat, *United Nations Conference on Trade and Development, Review of Maritime Transport, 2015* (2015), 2-5.

91 Christopher Baldwin, *Seaborne Trade Flows in the Asia Pacific Present and Future Trends* (2001), 28-29.

92 Source of map: Peter J Rimmer, 'Commercial Shipping Patterns in the Asia Pacific Region, 1990-2000: the Rise and Rise of China' in Andrew Forbes (ed), *The Strategic Importance of Seaborne Trade and Shipping: A Common Interest of Asia Pacific*, Australian Maritime Affairs (2002) vol 10, 35, 39.

93 Note by the UNCTAD Secretariat, TD/B/C.I/MEM.2/8, 12 January 2010. <[http://unctad.org/en/Docs/cimem2d8\\_en.pdf](http://unctad.org/en/Docs/cimem2d8_en.pdf)>

94 Energy Information Administration, <<http://www.eia.doe.gov/oiaf/ieo/world.html>>, at 28 December 2008.

total world consumption of marketed energy is projected to increase by 50 percent from 2005 to 2030.<sup>94</sup> The rapid economic development of Asian countries comes with a heavy price: a high dependence on the import of raw materials, especially oil. For example, since 1993 China has had to import large volumes of crude oil to satisfy economic demands, particularly demand from its own industries. At least 32 per cent of China's oil is imported from the Middle East.<sup>95</sup> It is obvious that the bulk of the Middle Eastern oil to Northeast Asian economies such as China, Japan, Taiwan, and South Korea, will pass through Indonesian waters, such as the Straits of Malacca, Lombok, or Sunda. The uninterrupted flow of imported energy must be secured so as not to jeopardise economic growth.

Moreover, in addition to oil, these countries also need coal and gas, including liquid natural gas. Australia is one of the world's biggest exporters of coal and iron ore.<sup>96</sup> Ships carrying coal and iron ore from Australia will pass through Indonesian waters.<sup>97</sup> Like Australia, Indonesia too is an exporter of mineral resources to countries such as China, India, Japan and South Korea.

### 3.2. Naval Movement

There is no doubt that securing energy flow usually parallels a need to secure the movement of naval auxiliaries so that they may guarantee the security of energy supplies.<sup>98</sup> In addition, regional stability also requires the presence of naval forces. Thus, in certain circumstances, States tend to build up their naval forces in order to secure their interests.<sup>99</sup> While the presence of naval forces is necessary in certain circumstances, it sometimes may however create tension if such a presence is considered to threaten the sovereignty or interests of a coastal State. According to Bateman,<sup>100</sup> the maritime security scene in the Asia-Pacific region is currently volatile. This is due to threats of maritime terrorism,<sup>101</sup> bilateral tensions that occasionally re-surface,<sup>102</sup> and the on-going problem of law and order at sea. Security concerns which interfere with navigation are very broad, but they can be limited to several activities such as piracy, terrorism, undocumented migration, trafficking of narcotic drugs and psychotropic substances, illegal fishing, bio security and pollution.<sup>103</sup> These concerns sometimes require the

95 Kevin X Li and Jin Cheng, 'Maritime Law and Policy for Energy Security in Asia: a China Perspective' (2006) 37(4) *Journal of Maritime Law and Commerce* 567.

96 In 2007, Australia's largest individual merchandise export items were coal (\$21 billion), iron ore (\$16 billion) and non-monetary gold (\$11 billion), <[http://www.dfat.gov.au/facts/trade\\_fast\\_facts.html](http://www.dfat.gov.au/facts/trade_fast_facts.html)>, at 7 January 2009; See, eg, Ken Matthew, 'Trade and Shipping: A Common Interest of the Asia Pacific' in Andrew Forbes (ed), *The Strategic Importance of Seaborne Trade and Shipping: A Common Interest of Asia Pacific*, Australian Maritime Affairs (2002) vol 10, 53.

97 Australia's largest merchandise trading countries are China, Japan, the United States and the Republic of Korea, <[http://www.dfat.gov.au/facts/trade\\_fast\\_facts.html](http://www.dfat.gov.au/facts/trade_fast_facts.html)>, at 7 January 2009. Data of export and import of Australia <[http://www.dfat.gov.au/publications/stats-pubs/dme/direction\\_exports\\_0708.pdf](http://www.dfat.gov.au/publications/stats-pubs/dme/direction_exports_0708.pdf)>, at 7 January 2013.

98 According to Sir Walter Raleigh, "Whosoever commands the sea commands the trade; whosoever commands the trade of the world commands the riches of the world, and consequently the world itself," cited in James E Toth, *Military Strategy Note: Strategic Geography* (1995), 94.

99 Regional countries spend a combined US\$ 14 billion on new naval ships, Defence expert say on Naval ship spending to increase in Asia Pacific, the China Post (11 November 2003) <<http://www.chinapost.com.tw/news/2003/11/11/43042/Naval-ship.htm>>, at 2 January 2014; Jin-Hyun Paik, 'Maritime Security in East Asia: Major Issues and Regional Responses' (2005) 12(2) *Journal of International and Area Studies* 15, 18-19.

100 Sam Bateman, 'The Growing Significance of Coast Guards in the Asia Pacific: A Quiet Development in Regional Maritime Security' in Aldo Chircop, Scott Coffen-Smout and Moira McConnell (eds), *Ocean Yearbook 20* (2006) 505, 505.

101 This threat includes weapon of mass destruction (WMD).

102 It is due to disputed claims to sovereignty over islands (Spratley, Paracel, Takeshima/Tokdo islands) or offshore areas (off Sipadan and Ligitan Islands).

103 Philipp Wendel, *State Responsibility for Interferences with the Freedom of Navigation in Public International Law* (2007), pp. 16-48; Kazumine Akimoto, above n 182, 119.

involvement of military presence to be dealt with effectively.

The United States naval bases in the Asia-Pacific region are in Hawaii, Guam and Japan.<sup>104</sup> Furthermore, there are the United States naval bases in the Indian Ocean, such as in Diego Garcia<sup>105</sup> which typically concerns itself with transferring warships and their auxiliaries to the other United States naval bases for deterrence purposes.<sup>106</sup> Moreover, the United States warships travelling to their allied countries such as Australia and Singapore usually pass through Indonesian waters.<sup>107</sup> The policy might be intended to enhance the United States strategic interests in maintaining regional stability and a credible power projection capability in the region and beyond.<sup>108</sup> The US Freedom of Navigation (FON) Program combines diplomatic action and the operational assertion of navigational rights.<sup>109</sup> This program emphasizes the use of naval exercises to discourage State claims inconsistent with customary international law.<sup>110</sup> Moreover, the growing naval power of developing nations such as China and India, are 'blue water' naval capability which may contrary to the US naval mobility.<sup>111</sup> According to Valencia, the United States' flexibility regarding South Asia's sea lanes of communication during the Cold War was designed to create options for the United States Navy to navigate its warships and submarines from east to west and vice versa.<sup>112</sup> These activities occur sometimes in Indonesian waters

or adjacent to Indonesian's EEZ.

### 3.3. Geo Political and Strategic Factors

Discussing on maritime, it seems very complex, difficult, expensive, and transnational, so a State has to provide high technology, qualify human resources, lots of money, and need cooperation with other states. Indonesia as being geographically, politically and legalistically an archipelagic state, is advantageous but also confronted by various other factors, such as geographical position, strategic cross-road, population structure, domestic-political issues, economic and financial capability, and lack of technology capability.

It has been described earlier that Indonesian waters are highly strategic because of its geographical locations. Indonesia has strategic interests in commerce, peace, stability and security in the region, it must also address potentially negative effects associated with international navigation such as marine pollution, degradation of marine resources and maritime criminal activities. Indonesian waters have become the focus of strategic attention by user States due to a number of factors, which include economic, military and oil or energy concerns. These factors are interrelated and exert distinct dynamic impacts and outcomes for all concerned States. On the other hand, Indonesia has to take necessary steps in order to tackle

104 Seventh Fleet homepage <<http://www.c7f.navy.mil/command-support.htm>>, at 10 September 2009.

105 Rahul Roy-Chaudhury, 'US Naval Policy in the Indian Ocean' (1998) 22(9) *Strategic Analysis* 17, 1319-21.

106 This is part of the United States military strategy as stated in US Department of Defense, National Security and the Convention on the Law of the Sea (2nd ed, 1996) and the 1994 White Paper of the United States Navy and the United States Marine Corps; George Galdorisi, 'An Operational Perspective on the Law of the Sea' (1998) 29(1) *Ocean Development and International Law* 43.

107 The Changi Naval Base in Singapore has been newly expanded to accommodate Nimitz-class aircraft carriers and other large ships of the United States Seventh Fleet that are transiting from the Indian Ocean to the Pacific Ocean, <<http://www.globalsecurity.org/military/facility/singapore.htm>>, at 26 July 2011.

108 US Department of Defense, *The United States Security Strategy for East Asia Pacific Region* (1998).

109 George Galdorisi, 'The United States Freedom of Navigation Program: A Bridge for International Compliance with the 1982 United Nations Convention on the Law of the Sea?' (1996) 27(4) *Ocean Development and International Law* 399.

110 US Department of State, *Limit in the Seas: United States responses to Excessive Maritime Claims* 2-4 (1992).

111 George Galdorisi, 'The United Nations Convention on the Law of the Sea: A National Security Perspective' (1995) 89 *American Journal of International Law*, 209.

112 Mark J Valencia and James Barney Marsh, 'Access to Straits and Sealanes in Southeast Asian Seas: Legal, Economic, and Strategic Considerations' (1985) 16(4) *Journal of Maritime Law and Commerce* 513, 543-45.

some of the negative effects of seaborne trade within its waters.

Indonesia has many obligations pertaining to navigation, such as providing sea-lanes for ships passing through and guaranteeing the security and safety of the sea-lanes. Indonesia needs to ensure that these sea-lanes are navigable, safe, secure, and do not endanger the marine environment. In order to ensure safety of navigation as well as the protection and preservation of the marine environment, Indonesia therefore need to establish aids to navigation as part of Indonesia's navigational system, updating paper and electronic charts, installing navigational aids, broadcasting maritime hazards and weather forecasts, patrolling certain areas and response to all maritime criminal incidents. These aids to navigation and electronic charts have become increasingly depend on sophisticated technology such as satellites. Indonesia's navigational or maritime surveillance system should be sufficient to cover the entire area of the sea-lane of communication and should be accessible to ships. Substantial financial resources are required for the acquisition and maintenance of such equipment considering the considerable spatial extent of its waters.

The population structure of Indonesia is also very uneven where most of the people are living in the western part of Indonesia, particularly in the island of Java. This uneven population structure has also brought sensitivities, between the western and the eastern parts of Indonesia which feel that they may have been "neglected" in terms of economic and social development in favour of the development in Java. They are demanding more rights to exploit the maritime resources surrounding them because of feeling in justice. Indonesia is also facing a lot of domestic issues, including in the area of regional autonomy. These developments have also brought problems to the management of the maritime and other resources. In addition, conflicts have also arisen between some provinces regarding jurisdiction

over certain islands and provincial/district maritime zones and resources control. Furthermore, Indonesia has just passed the stage of political transformation from authoritarian government to Democracy and Reformation. This political transformation has also been affecting the management of Indonesian maritime resources and security. All these require strengthening of Indonesian defence and law enforcement agencies and close cooperation with the neighbouring countries, including in making definitive solutions to all boundaries delimitation and demarcation issues.

Indonesia as archipelagic state is a destiny. So Indonesia has to develop concept to get advantage as country within the cross road of world economic. The *Wawasan Nusantara* has been developed along with the concept of *Nusantara* in the era of Djuanda. It seem there is still compatible and compliance with the international law when we try to enhance and develop this maritime policy.

The *Wawasan Nusantara* as Indonesia's Maritime Domain Awareness can be seen both inward looking and also outward looking. Inward looking, the *Wawasan Nusantara* can be a tool for how to encourage all national components to work together in order to achieve national goal by utilizing national resources. Outward looking, the *Wawasan Nusantara* can be a toll to balance the interest of international community and national. The *Wawasan Nusantara* doctrine would go on to provide substance to Indonesia's perceptions and interests in maritime matters in following years, regarding maritime boundaries, navigational regimes and managing natural resources. In these maritime zones, Indonesia has sovereignty, which is the same as the sovereignty over land and air space. The *Wawasan Nusantara* can be used as sphere of influence and also the projection of the Indonesian interest.

The *Wawasan Nusantara* is not only within policy and political level, but it has to be implemented into various sectors. Having

considered the contemporary threats and challenges, the *Wawasan Nusantara* has to be applied into organizational policy, which it should synergize all the existing institutional functions. This organization has to focus on maritime and air surveillance (within, into, coming from Indonesian territory), Data Centre (collecting, analyse, fuse, and disseminate), and Decision and Execution (strategic, operational, and tactical).

#### 4. Conclusion

This paper has provided the historical context of the development of *Nusantara* doctrine and shown development of the territory of Indonesia is based on its geographical setting, economic interest and national security. The maritime policy of Indonesia can be traced back to the Dutch colonial period which stated that the territorial limit was three nautical miles and defined the way those baselines were drawn. After the independence of Indonesia, the colonial concept of maritime territory was not favoured by Indonesia. Later, the struggle for Indonesian independence affected the way Indonesia looked upon its own territory.

The archipelagic State doctrine is a new legal concept for ocean regimes around the world. The Indonesian archipelagic concept began in 1957 through what is recognized as the

Djuanda Declaration. This Declaration stated that the islands of Indonesia and the seas between the islands formed one integral unit. Later in order to achieve the national goal, Indonesia set up *Wawasan Nusantara* as maritime political doctrine.

Having vast maritime space, Indonesia confronts many threats and challenges. Contemporary threats reflect, not only, competition interest between countries, but also non-state actors, which seems increase and sound alarming. Indonesia has to tackle all threats and challenges and has to provide substantial finance; human resources, high technology, and set up cooperation among respected countries.

The *Wawasan Nusantara* can be seen as Indonesia Maritime Domain Awareness in which how Indonesia to balance the national interest and the interest of international community to *Nusantara* is navigation/communication and Indonesia has to accommodate the interest. Again, it might be different from the notion of *Wawasan Nusantara* from first place, but Indonesia seems to look into it. Finally, Indonesia needs to look again the *Wawasan Nusantara* Concept for the sake of Indonesia interest within the nowadays-global maritime interest.

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