Synergy of port authority and port business entity in maintenance of shipping flows and port pools in commercial ports

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ABSTRACT

The enactment of Law Number 17 of 2008 concerning Shipping is the separation of the functions of government activities at ports and the functions of port exploitation. The separation of the functions of government activities and port operations aims to manage ports professionally, by opening up opportunities for fair business competition. There are two authorities in the Port Authority and Port Business Entity, namely the Government in this case the Port authority and the Port Business Entity which obtains a permit from the ministry. For this reason, it is necessary to build synergy in maintaining Port Authority and Port Business Entity at commercial ports. The problem in this research is how the synergy between the Port Authority (government) and Port Business Entity in maintaining shipping lanes and port pools in commercial ports. By using normative research methods, it is known that the synergy between port authorities and port business entities in maintaining shipping lanes and port pools at commercial ports is carried out through communication and coordination and is stated in the form of an agreement. The agreement made is a joint commitment between Port Authority and Port Business Entity in improving shipping safety and improving services at commercial ports.

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Introduction

Since its establishment, the Indonesian state is determined to establish it self as a state based on law, as a Rechtsstaat that advances public welfare, educates the nation's life, and realizes social justice for all Indonesian people (Attamimi, A. Hamid S., 1994). The development carried out is a mandate from the objectives of the State of Indonesia as stated in the Preamble of the 1945 Constitution of the Republic of Indonesia, paragraph IV (four), namely promoting general welfare. Furthermore, Article 33 paragraph (2) of the 1945 Constitution has shown that the State of Indonesia has explicitly mandated to safeguard Indonesia's natural wealth and manage it for the prosperity of the nation (Hamzah, Fahri, 1912). One of the efforts to prosper the nation is through the construction of one of the ports.

Shallowing caused by sedimentation that occurs in shipping lanes and harbor pools. For this reason, silting must be minimized, especially in port pools in order to secure and smooth shipping lanes. In connection with this, to reduce siltation caused by sedimentation is by dredging the port pond. In Article 59 paragraph (4) Government Regulation Number 31 of 2021 concerning the Implementation of the Shipping Sector, states that the Port Authority has the duties and responsibilities, providing and maintaining wave barriers, port pools, shipping lanes, and road networks. The opportunity to do business at the port, which was previously monopolized by PT. Pelindo (Persero) through Law Number 21 of 1992 concerning Shipping, was subsequently monopolized by the enactment of Law Number 17 of 2008 concerning Shipping. Conversely, this law explicitly allows the involvement of local government and the private sector to participate in managing the port (Kent, 2012). The authority between port authorities and
port business entities in maintaining shipping lanes and port pools can synergize, so that their maintenance can provide benefits in increasing the security and safety of shipping lanes (Josep, 2019).

Based on the above background, it was aimed interested in conducting research with the title Synergy between the Port Authority (Government) and Port Business Entities in Maintaining Shipping Lines and Port Ponds in Commercial Ports. While the purpose of this study is to determine the synergy between the port authority (government) and port business entities in maintaining shipping lanes and port pools at commercial ports.

This research is normative legal research. It is also known as legal research (Hardjon, 1997). According to (Diantha, 2016) normative research is research that provides an understanding of the normative problems experienced by dogmatic legal science in its activities of describing legal norms, formulating legal norms (forming legislation), and enforcing legal norms (judicial practice) (Diantha, 2016). Law is normative, which consists of norms/rules written in the form of legislation set by government authorities. Normative legal research is a document study, using only legal sources. (Hartono, 1994).

**Literature review**

**Theoretical and Conceptual Background**

**Synergy, Communication and Coordination**

Najiyati and Rahmat (2011), define synergy as a combination or grouping of elements or parts that can produce better and larger outputs Najiyati and Rahmat, 2022. So, synergy can be understood as a combined operation or a combination of elements to produce a better output. Synergy can be built in two ways, namely:

Sofyandi and Garniwa (2007), the notion of communication can be divided into two parts, i.e.: 1) Definition of source-oriented communication states that communication is an activity by which a person (source) actually transfers stimuli in order to get a response. 2) Understanding of receiver-oriented communication views that communication as all activities in which a person (receiver) responds to a stimulus or stimuli (Sofyandi dan Garniwa, 2007).

The existence of communication in creating synergy also requires coordination. Communication cannot stand alone without coordination as stated by Hasan that coordination is needed in communication (Hasan, 2005). (Silalahi, 2011), coordination is the integration of individual activities and units into one joint effort, namely working towards a common goal. Moekijat (1994) mentions that there are 9 (nine) requirements to realize effective coordination, i.e.: 1) Direct relationship, 2) Initial opportunity, 3) Continuity, 4) Dynamism, 5) Clear goals, 6) Simple organization, 7 ) Clear formulation of authority and responsibility, 8) Effective communication, 9) Effective supervisory leadership (Moekijat, 1994).

The synergy concept above is in line with the opinion of D. Mulyana, 2008 in the synergy and partnership of program planning. The forms of synergy are: coordination and communication.

**Maintenance of Shipping Lanes and Port Pools**

Article 1 paragraph 3 of the Regulation of the Minister of Transportation Number 129 of 2016 states that shipping lanes are waters which in terms of depth, width, and are free from other shipping barriers that are considered safe and secure for ships to navigate at sea. The shipping lane is an important port component as a ship's entry and exit route, namely working towards a common goal, Moekijat (1994) mentions that there are 9 (nine) requirements to realize effective coordination, i.e.: 1) Direct relationship, 2) Initial opportunity, 3) Continuity, 4) Dynamism, 5) Clear goals, 6) Simple organization, 7 ) Clear formulation of authority and responsibility, 8) Effective communication, 9) Effective supervisory leadership (Moekijat, 1994).

The shipping lane is designed to be traversed by the targeted ship to direct the ship that will be used to enter the port pool.

Article 1 (paragraph 23) of Government Regulation Number 31 of 2021 concerning the Implementation of the Shipping Sector states that the port pool is the water in front of the pier that is used for the purposes of berthing operations and ship maneuvering. The port pool is the water in front of the pier where ships can dock to carry out loading and unloading of goods, refueling and clean water, repairs, and others. The pond should occupy a place with calm water which can be obtained by considering the layout of facilities such as breakwaters, piers and shipping lanes.

Port pools maintenance is important to maintain the pool depth or shipping lane caused by the process of movement and deposition of mud (sediment transport). One way to maintain the port pool is by dredging. Based on the results of the International Association of Ports and Harbors (IAPH) conference in June 1983 in Vancouver, Canada, it was recommended that in general all ports must carry out shipping lane maintenance activities continuously along the shipping lane to accommodate incoming ships/ out of the port and maintain the security and safety of shipping (Rosdynur, 2012).

Dredging works can be grouped into four types, i.e.: Capital Dredging, Maintenance Dredging, Rock Dredging, and Reclamation. Maintenance of shipping lanes and port pools at ports is carried out periodically to keep it functioning. Shipping safety is the most important thing in transportation activities at sea.
Commercial Ports

Ports as marine transportation infrastructure have a very important and strategic role for industrial and trade growth and are business segments that can contribute to the economy and national development because they are part of the chain of transportation and logistics systems (Putra and Susanti, 2011). The function of the sea port is to anchor ships, dock ships both from within and outside the country, as well as disembark and board passengers. (Salim, 1993).

Article 1 paragraph (10) of the Regulation of the Minister of Transportation of the Republic of Indonesia Number PM 57 of 2020 concerning the Second Amendment to the Regulation of the Minister of Transportation Number PM 51 of 2015 concerning the Operation of Seaports, it is stated that a commercial port is a port that is operated with the function of regulation, control and supervision. Port activities that are commercially managed are under the government agency at the port as the port authority.

The role of the ports varies depending on its function in carrying out activities, namely (Indonesian Port, 2001):

i. Commercial Port, is a direct support for the growth of industry or agriculture as well as export-oriented plantations for the region concerned.

ii. Ports that are managed directly by the government have an important meaning for economic, socio-cultural development, for the sake of running government functions as well as defense and security functions from remote areas or islands.

iii. This special port is managed and built by the industry concerned

In Government Regulation Number 61 of 2009 concerning Ports, that port operators consist of Port Authorities (OP) on commercially operated ports and Port Operator Units (UPP) on ports that have not been commercially operated. (Anisah, 2014).

Port Authority

The definition of a port according to Article 1 of the Regulation of the Minister of Transportation of the Republic of Indonesia Number PM 57 of 2020 is a place consisting of land and/or waters with certain boundaries as a place for government activities and business activities that are used as a place for ships to dock, up and down passengers, and/or loading and unloading of goods, in the form of terminals and ship berths equipped with shipping safety and security facilities and port support activities as well as places for intra and intermodal transportation. Indonesia needs a well-developed and efficiently managed port sector to distribute goods for trade. (Wijoyo, 2013), Producer competitiveness, both in national and international markets, internal distribution efficiency, and more generally, national economic cohesion and integrity strongly influenced by the performance of the port sector. (Setiono, 2019)

The port is the entrance and exit for various currents. The goods flow, services flow, the flow of ships, the flow of passengers, the flow of crew, the flow of foreign exchange, the flow of animals, the flow of plants, the flow of viruses and bacteria, the flow of fleas and insects, the flow of documents, the land transportation flow, the ship logistics flow including fuel and water clean, and everything else can go through the port (Sasono, 2012). The port is a means that supports trade and the distribution of goods needed by the community. The port is a determining element for trading activities. Therefore, efficient port management will also affect the progress of trade and industry in underdeveloped areas will also advance. (Lasse, 2007).

The authority to operate ports based on positive law in Indonesia is technically regulated in Government Regulation number 61 of 2009 concerning Ports. (Lestari, 2020). From the social aspect, the port becomes a public facility for the community to carry out interactions, including it (Annas, 2010). In addition, the port is a means that supports the process of transporting and moving people from one place to another. (Balfas, 2015). Meanwhile, economically, the port functions as one of the drivers of the economy because it becomes a facility for the distribution of production products. Therefore, the port sector is a very strategic place for the movement of goods and services, transportation facilities, and even further matters relating to the modern business of exporting and importing goods.

According to Adam and Dwiantuti (2015) based on their status, there are three types of ports in Indonesia, i.e. commercial ports (operated), non-commercial ports (not operated) and private ports. Commercially managed under the government agency in the port as the port authority (Sinaga, 2020). Commercial ports under the guidance of the Government in accordance with their conditions, capabilities and potential developments are still more prominent in their administrative nature and or those that have not been designated as commercialized ports. (Seodjono, 1983). Commercial ports are a support for socio-cultural, political and defense and security interests, commercial activities in ports, of course, have the potential to support the country's economic development. (Jinca, 2011) The port is a gateway to enter a region or country and as a liaison infrastructure between regions, between islands and even between countries, continents and nations (Alfianto, 2020).

One of the implications of the enactment of Article 80 of Law Number 17 of 2008 concerning Shipping is the functions separation of government activities at ports and the port exploitation functions. The functions of government activities are delegated to the port authorities, port authorities, customs, immigration and quarantine authorities in terms of regulation, guidance, supervision, and control. Division of Duties and Authorities between Government Functions and Business Functions. Improvement of port services
from government agencies consisting of Port Administrators; Customs and Excises; Immigration; Quarantine and Port Health, need to make improvements. The services provided always get complaints from port service users, too much bureaucracy causes high costs. (Ginting, 2016).

According to Pana et al (2017) the Port Authority (OP) is a government institution at the Port as an authority that carries out the functions of regulating, controlling, and supervising port activities that are commercially managed, this is stated in the stipulation of Law Number 17 of 2008 concerning Shipping and Regulations. Government Number 69 of 2011 concerning Ports, one of which is the Port Authority which is a regulator at the central level under the control of the Minister of Transportation. (Pana, 2017) The OP as a regulator of its authority is regulated in Article 83 Paragraph 1 letters a-h, explicitly the OP regulates, among other things, the leasing of port land and other infrastructure including other infrastructure, viz roads in the port area, ponds, and ship-out routes. Article 81 of Law Number 17 of 2008 concerning Shipping states that OP has the function of regulating and fostering, controlling and supervising in the implementation of port activities.

Article 81 of Law Number 17 of 2008 concerning Shipping states that OP is a Government representative in providing concessions or other forms to BUP to carry out business activities at ports as outlined in the agreement. Concession is the authority of the port authority given to BUP through an auction mechanism or assignment/appointment, by providing concession revenue to the state at least 2.5% of BUP's gross income. (Samawatia, 2021). The OP also grants concessions to BUP (Article 82 paragraph 4) and holders of land management rights and water use (Article 85). Then the duties and responsibilities of the Port Authority (OP) briefly include matters related to the provision of land (land and water) as well as the development and maintenance of basic infrastructure (shipping lanes, port pools, wave barriers, road network in ports).

In Article 84 of Law Number 17 of 2008 concerning shipping it is stated that the authority of the OP is as follows: 1) Regulating and supervising the land use and port waters; 2) Supervise the use of port DLKr and DLKp; 3) Regulating ship traffic in and out of the port through ship scouting; 4) Establishing operational performance standards for port services. Additionally, in Article 62 of PP Number 61 of 2009 requires the Port Authority to: 1) Prepare SISPRO for port services; 2) Maintain the smooth and orderly service of ships and goods as well as the activities of other parties; 3) Supervise the loading and unloading of goods; 4) Implementing integrated information and communication system technology for the smooth flow of goods. 5) Coordinate with related parties for the smooth flow of goods.

**Port Business Entity**

According to Article 69 of Law Number 17 of 2008 concerning Shipping, it is stated that the port management function is handed over to the Port Business Entity (BUP) which consists of State-Owned Enterprises (BUMN), Regional-Owned Enterprises (BUMD), and Private-Owned Enterprises (BUMS). BUP is a business entity whose business activities are specialized in the exploitation of terminals and other port facilities and acts as an operator operating terminals and other port facilities. BUP is required to have a business license from the Minister of Transportation. Conversely, in addition to having a business license from the Minister of Transportation, BUP also has the following obligations: 1) Provide and maintain the feasibility of port facilities; 2) Provide services to port service users in accordance with service standards set by the Government; 3) Maintain security, safety and order at the port facilities that are operated; 4) Participate in maintaining safety, security and order regarding transportation in waters; 5) Maintaining environmental sustainability; 6) Fulfill obligations in accordance with the concessions in the agreement; 7) Comply with the provisions of laws and regulations both nationally and internationally (Article 94 of Law Number 17 of 2008).

Meanwhile, the activities that can be carried out by the Port Business Entity are in the form of providing and/or services as follows: 1) Pier services for mooring; 2) refueling and clean water services; 3) Passenger and/or vehicle boarding facilities; 4) Pier services for loading and unloading of goods and containers; 5) Warehouse and stockpiling services, loading and unloading equipment and port equipment; 6) Container terminal services, liquid bulk, dry bulk and ro-ro; 7) loading and unloading services of goods; 8) Goods distribution and consolidation center; and 9) Ship towing services.

**Main Contributions of the Study**

The shipping lane is one of the main facilities of the designation of the territorial waters of a commercial port and has an important role as access to and/or entry to the port. Shipping lanes are a vital object of a commercial port whose development and management must be carried out based on considerations of shipping aspects, especially in ensuring the safety and security of shipping. Shipping lanes implementation in Indonesia is the responsibility of the government whose implementation must be carried out as well as possible in order to ensure the smooth and effective operation of commercial ports as a whole.

Maintenance of shipping lanes and port pools at ports is carried out periodically to keep them functioning. Some of the factors causing the maintenance program to fail are company policies, system maintenance procedures, human resources, weaknesses in budgeting and budget constraints. Based on the evaluation of these causal factors, it is necessary to improve and overcome these causal factors to increase the effectiveness and quality of services.

Port is one of the nodes in the chain for the smooth transportation of sea and land cargo. Harbors must be safe from storms, waves, and currents. So that the ship can rotate, load and unload, and transfer passengers safely. If the sediment in the harbor pond that is
formed is too high, this can cause the ship to sink. To avoid this, dredging is needed to a certain depth so that the ship can dock safely. Based on security considerations and providing adequate services for port users, the main factor influencing the occurrence of the sedimentation process is tidal currents. Therefore, it is necessary to study and analyze the distribution pattern of sediment material transport at the location of the dredging plan. (Witantono, 2015).

According to the Regulation of the Minister of Transportation Number PM 51 of 2015 concerning the Operation of Seaports states that the provision and maintenance of wave restraints is carried out to ensure the safety of services and currents and wave heights do not interfere with activities at the port in accordance with water conditions. This treatment is carried out periodically. Provision and maintenance of port pools carried out by the Port Authority, Harbormaster and or Port Operator Unit is carried out for the smooth operation or movement of ships. The provision of a port pool is carried out through the construction of a port column. Maintenance of the port pool is carried out periodically to keep it functioning.

The limited funding capacity by the government in the construction and management and maintenance of shipping lanes and port pools is a major consideration for the government in giving some of the authority and responsibility for the operation of shipping lanes to port business entities. In Article 43 of the Regulation of the Minister of Transportation Number PM-15 of 2015 concerning Concessions and Other Forms of Cooperation between the Government and Port Business Entities in the Port Sector, it is stated that the granting of concession rights to BUP in maintaining shipping lanes and port pools at commercial ports is carried out through a concession agreement on a regular basis. In writing followed by the granting of concession income which is submitted to the state treasury through the Port Authority of at least 2.5% (two point five percent) of the gross income of the BUP.

Concession requires investment in the procurement of infrastructure and/or facilities carried out by the concessionaire (development or rehabilitation or modernization) related to the business activities carried out. The concession agreement is a long-term agreement in the form of a partnership between the government and a business entity (Public Private Partnership). Calculation of concession rates is also regulated in this ministerial regulation with a minimum tariff of 2.5% which is calculated based on the relationship formula between port traffic projections, port tariff schemes, investment amount, and concession period.

The synergy between the Port Authority (Government) and Port Business Entities in Maintaining Shipping Lines and Port Pools at Commercial Ports can be seen from several indicators, namely:

**Communication**

In order to produce a synergistic relationship, it is necessary to create good communication and coordination, because basically synergy will occur if there is good coordination and communication between the two. Communication cannot stand alone without coordination as stated by Hasan that coordination is needed in communication (Alwi, 2005).

Communication is the method used by the source to convey information and then the recipient of the message gives a stimulus for the information conveyed. The emergence of this stimulus means that the port concession agreement implemented between the port authority and the BUP can be carried out in the form of concession cooperation projects in the exploitation of shipping lanes and port pools.

Article 33, Regulation of the Minister of Transportation Number PM-15 of 2015 concerning Concessions and Other Forms of Cooperation between the Government and Port Business Entities in the Port Sector states that the cooperation mechanism is through auction or assignment/appointment to BUP. The granting of concessions for the maintenance of shipping lanes and port pools including capacity building and channel facilities is carried out after a review by the port operator. Additionally, Article 38 of the Regulation of the Minister of Transportation Number PM-15 of 2015 concerning Concessions and Other Forms of Cooperation between the Government and Port Business Entities in the Port Sector states that the granting of concession rights is carried out by the auction method or assignment/appointment to the BUP. In Article 74 of Government Regulation Number 64 of 2015 concerning Amendments to Government Regulation Number 61 of 2009 it is stated that the auction mechanism is carried out with reference to regulations on the procurement of government goods and services and other laws and regulations relating to the auction process. Meanwhile, the mechanism for granting concession rights through assignment/appointment is carried out in the following manner:

i. BUP submits an application to the port operator to be forwarded to the Minister of Transportation through the Director General by completing the pre-feasibility study requirements consisting of: a) Legal and institutional studies; b) Technical studies; c) Project feasibility study; d) Environmental and social studies; e) Study of forms of cooperation in the provision of infrastructure; f) Assessment of the need for government support and/or government guarantees.

ii. Additionally, the Director General conducts an assessment and submits the results of the assessment on the fulfillment of the pre-feasibility study within 30 working days from the receipt of the complete application.

iii. In the event that based on the results of the examination the requirements have not been met, the Director General shall return the application in writing to the applicant.

iv. In the event that the requirements for the results of the research have been met, the Director General shall submit the results of the evaluation to the applicant to proceed to the completion of the feasibility study.

v. The applicant submits a feasibility study to the Minister through the Director General.
vi. The Director General conducts an assessment and submits the results of the assessment on the fulfillment of the feasibility study within 30 working days from the receipt of the complete application;

vii. In the event that based on the results of the examination the requirements have not been met, the Director General shall return the application in writing to the applicant;

viii. In the event that based on the results of the research the requirements have been met, the Director General submits the evaluation results to the applicant to proceed according to the stages of port development/development;

ix. The reciprocity from BUP to OP so that there is an exchange of information must be improved but it is still one-way because it is based on appointment. Communication efforts in the context of synergy between OP and BUP must continue to be built. Dredging of shipping lanes as one part that supports the smooth distribution of goods and passengers by sea has a very strategic role in supporting national distribution activities.

Coordination

The OP and BUP parties collaborate and synergize considering that the dredging process for shipping lanes and port pools cannot be carried out by the Government alone, due to the large costs required. For this reason, BUP can contribute to the dredging process. Synergy that is built in addition to communication also needs coordination.

Coordination is very closely related to management because in management there are coordination steps as described by James AF Stoner, namely Management is the process of planning, organizing, directing, and controlling the activities of members of the organization by using organizational resources to achieve the goals that have been set. (Imamul and Giana, 2007). In overcoming every shipping problem, especially the maintenance of shipping lanes and port pools, it is necessary to have coordination between OP and BUP so as to allow problems to be handled immediately. To serve the community, coordination is also carried out to minimize the risk of disasters that often occur.

Coordination needs to be used to be able to improve the results of government work where it is felt that there is a need for coordination between government agencies. This is expected to ensure cooperation between the agencies under it. Working relations, coordination and communication from the technical point of view of government implementation. Besides that, the practice of solving problems is sometimes only carried out incidentally or when problems occur. Through meetings or deliberation as one way to organize coordination. However, the drawback is that this method depends so much on the wisdom or personal taste of the person in charge of the coordinator. One form of coordination in the dredging of shipping lanes and port pools is carried out in the dredging of the Belinyu, Muntok, and Pangkalbalam Ports, the dredging of the 3 (three) ports will be realized considering the increasingly high sedimentation, especially in the Pangkalbalam and Muntok ports. Meanwhile, the dredging and deepening of the new port channel at Tanjung Gudang Belinyu is a development into a National Strategic Project (PSN), communication and coordination potential preventative measures to prevent such accidents. The findings of this article contribute to the implementation and monitoring of port strategies that will allow for more sustainable and secure development (Jiaguo Liu, Huan Zhou & Huali Sun 2019).

Conclusion

The synergy between port authorities and port business entities in maintaining shipping lanes and port pools at commercial ports is carried out through communication and coordination and is stated in the form of an agreement. The agreement made is a joint implementation and monitoring of port strategies that will support the smooth distribution of goods and passengers by sea has a very strategic role in supporting national distribution activities.

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Data Availability Statement: The data presented in this study are available on request from the corresponding author. The data are not publicly available due to privacy.

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