



## **Legal Review of Ship Construction and Measurement Based on Shipping Standards at the Ministry of Transportation and Ports of Batam City**

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### **ABSTRACT**

*The standard ship measurement method uses the ship measurement method in accordance with the International Convention on Tonnage Measurement of Ship, Legal Basis of Law Number 5 of 1983 concerning the Exclusive Economic Zone of Indonesia, Law Number 21 of 1992 concerning Shipping; Law Number 31 of 2004 concerning Standards. Decree of the Minister of Maritime Affairs and Standards Number 10 of 2002 concerning Standard Business Licensing. Regulation of the Minister of Transportation Number KM 6 of 2005 concerning Ship Measurement. This research uses the normative legal research method which is a conceptual legal research as contained in the statutory regulations and conceptual in other legal rules that exist in society regarding a particular legal problem. The conclusion in the research of the Legal Regulation of Ship Measurement in Shipping Standards at the Ministry of Transportation of Batam Port, Regulation of the Minister of Transportation and Regulation of the Director General of Land Transportation which aims to improve the safety of River, Lake and Crossing transportation, Identification and Measurement of Standard Ships and to improve the understanding and awareness of registration officers and physical examiners and standard ship documents regarding the procedures for Identification and Measurement of Standard Ships.*

**Keyword :** *Ship Measurement, Service Standards, Legal Review*

### **Introduction**

The Republic of Indonesia, which was proclaimed on August 17, 1945, has stated that the state is based on law. This statement is clearly seen in the explanation of the 1945 Constitution of the Republic of Indonesia, namely the State is based on law and not based on mere power. The consequences of this recognition imply the existence of a judicial institution because this judicial institution must exist and is a requirement for every country that calls itself a state of law or a state based on law. Indonesia is a maritime country so that sea transportation has an important role in connecting the archipelago and driving the economy. Sea transportation functions to serve the mobility of people, goods, and services that connect economic activities between islands and international relations.



The role of transportation, especially sea transportation, is that all activities related to sea transportation also need to be regulated by the state, so that the implementation of sea transportation activities can be carried out in an orderly manner and protect the interests of all parties involved in it. Law Number 17 of 2008 concerning shipping was made to accommodate all interests related to sea transportation, and according to the explanation of Law Number 17 of 2008 concerning shipping, it is intended that the implementation of shipping as a system can provide the greatest possible benefits to all people, nation and state, foster and develop a maritime spirit by prioritizing public interests and environmental sustainability, coordination between the center and regions and national defense and security.

Shipping is a means of smoothing the wheels of the economy, strengthening national unity, in establishing the realization of the archipelago outlook, improving and supporting national defense and security, which can further strengthen relations between nations. In addition, shipping also plays a role as a supporter, driver and driver for the growth of the Indonesian economy. Shipping businesses in carrying out these business activities certainly require large capital. Capital is provided by financial institutions, and of course accompanied by collateral. The term collateral law comes from the translation of *zakerhei-dessteling* or *security of law*. In the seminar of the national legal development agency on Mortgage Institutions and Other Collateral, which was held in Yogyakarta, on July 20-30, 1977, it was stated that collateral law includes the definition of both collateral and personal collateral. The definition of collateral law refers to the type of collateral, not the definition of collateral law. The essence of collateral law is the legal provisions that regulate the legal relationship between the guarantor (debtor) and the recipient of the collateral (creditor) as a result of the imposition of a certain debt (credit) with a collateral (a certain object or person). In the law of guarantees, it not only regulates legal protection for creditors as the party providing the debt, but also regulates legal protection for debtors as the party receiving the debt. In other words, the law of guarantees not only regulates the rights of creditors related to debt repayment, but also regulates the rights of debtors related to the guarantee of debt repayment.

Article 1131 of the Civil Code (KUHP) stipulates that "all movable and immovable assets owned by the debtor, both existing and future, become collateral for the debtor's obligations." This provision means that every obligation made which then gives rise to a debt



or certain performance obligation is guaranteed by all assets owned by the debtor in the future. Then in Article 1132 of the Civil Code (KUHPer) it states that "these assets become joint collateral for all those who have credit with them, the income from the sale of these assets is divided according to balance, namely according to the smallness of each receivable, unless there are legitimate reasons for priority among the creditors." This article implicitly states that the principle of equality between creditors can be set aside with the right to be prioritized among creditors. This occurs if among the joint creditors there is a *preferential right*, so that the creditor concerned becomes or has the position of a *preferred creditor*.

Guarantee which aims to safeguard credit, so that the realization of the credit agreement is carried out in accordance with the agreement. Providing this guarantee will provide legal certainty to creditors. The collateral given to the creditor in this case is a ship. According to Government Regulation Number 51 of 2002 concerning Shipping, ships are water vehicles of any shape and type, which are propelled by mechanical power, wind power, or suspended, including vehicles with dynamic carrying capacity, vehicles under the surface of the water, as well as floating equipment and floating buildings. who don't move around. Meanwhile, an Indonesian ship is any sea vessel that has fulfilled the requirements to become an Indonesian ship, so that it becomes an Indonesian ship. Ships with a minimum size of 20 m<sup>3</sup> (twenty cubic meters) gross contents can be recorded in a ship register and such ships can be attached with a mortgage.

The Commercial Code (KUHD) distinguishes ships into two groups, namely ships as movable property and ships as immovable property. Ships as movable property are ships that are not registered (Article 314 KUHD). Ships as immovable property are ships that have a size of at least twenty cubic meters of gross volume and are registered at the Harbor Master and Port Authority Office of the Directorate General of Sea Transportation, Ministry of Transportation, and with this registration have nationality as Indonesian Ships. Ships as immovable property, the collateral that can be placed on them is only in the form of a mortgage. Mortgages are regulated in Book II of the Civil Code (KUHPer) Chapter XXI Articles 1162 to 1232.

The port is one of the infrastructures in the transportation system that has an important role in supporting economic activities. Indonesia's condition as an archipelagic country



makes the existence of ports have a major role in supporting the distribution of goods through sea routes. Distribution activities of goods using sea transportation are carried out for distribution activities of goods between islands in Indonesia spread from Sabang to Merauke and also for distribution of goods between Indonesia and other countries. Seeing the importance of the role it has and the port *traffic* that continues to change, ports need to have short-term, medium-term, and long-term development plans so that ports can follow developments that occur. The development plan is realized in a masterplan or port master plan. The port masterplan contains port spatial arrangements in order to meet future needs. Batu Ampar Port is one of the ports on Batam Island, Riau Islands Province. Seeing its location in an industrial area, close to the Strait of Malacca, and opposite Singapore, this port has port traffic that continues to grow and encourages the government to develop this port. In this study, an evaluation of the Batu Ampar Port Masterplan was carried out which has been stipulated by the Ministry of Transportation with the number KM 77 of 2009. The evaluation was carried out to determine the suitability of the masterplan to the developments that have occurred and to provide suggestions for the need for space and 2 port equipment by considering the realization of traffic and port development that occurred after the masterplan was stipulated in 2009.

Ship transportation has a very important role in several regions of Indonesia that have large water areas, especially in inland areas that cannot be reached by land transportation. At this time, the development of sea transportation has experienced a decline in users due to the rapid development of land transportation. The area of waters owned by Indonesia of 7.9 km<sup>2</sup> can make Indonesia a country with a people's shipping power base to develop its economy. But unfortunately, this Indonesian shipping encourages a shortage of incoming foreign exchange due to payment of shipping costs to companies owned by other countries. This shortage is an obstacle to the development of shipping in Indonesia. The sea transportation system cannot be separated from the general transportation system, as well as other activities owned by the region and has a regional development process that aims to expand the reach of marketing funds for services in supporting various sectors of socio-economic activities at every point and stimulate the emergence of new activities in the regional economy. River and inter-island traffic systems in Indonesia is a transportation system that is traditionally used for various



purposes, both from the interior (*rural*) to the river mouth and then connected to small-scale ship traffic between islands.

In the planning, infrastructure improvements and suggestions will be made until public services can rise again and become the mainstay transportation for the community in areas where accessibility to other areas must be via river. The development of land and sea transportation is not always a competition, this is because there are several areas that cannot be reached by land transportation, namely inland areas considering the location of areas that are still small islands. Many rivers dry up in the dry season so that they cannot be navigated while the condition of many land roads is damaged due to the excessive load received by the road. Water transportation is widely relied on by industry and agriculture to carry goods to inland areas. Another problem that arises is the decline in the number of passenger and goods transportation from year to year.

Based on the description above, the following problem formulation can be drawn:

- 1) How to implement compliance with shipping standards requires several stages, including *Fiberglass Reinforced Plastics (FRP)* in accordance with applicable laws and regulations .
- 2) Obstacles From this mixing process, Fiberglass Reinforced Plastics (FRP) material is produced which has different mechanical properties and characteristics from the material forming it in accordance with the applicable statutory regulations.

### **Research methods**

In conducting this research, the researcher uses a normative legal research type. Normative legal research is conceptual legal research as contained in statutory regulations and conceptually contained in other legal rules that exist in society regarding a particular legal problem. In this research, the researcher uses a normative research type, namely research conducted by examining statutory regulations. or other regulations applied in resolving a particular legal problem. This normative research is often called doctrinal research where the object of study is are regulatory documents and library materials which are basic data which in research science are classified as secondary data. According to





Soerjono Soekanto, legal research can be divided into: Normative Legal Research, consists of:

1. Research on legal principles
2. Research on legal systematics
3. Research on the level of legal synchronization
4. Legal history research
5. Comparative legal research

In accordance with the type of research, namely normative legal research (normative juridical), more than one approach can be used. In this study, the Legislation approach and the concept approach were used. The Legislative Approach is carried out to examine the Legislative rules that regulate In the perspective of legal theory, justice is the main goal of the natural law school. Where the natural law school views that the law applies universally and eternally.

## **Results And Discussion**

**How to implement compliance with shipping standards requires several stages, including Fiberglass Reinforced Plastics (FRP) based on applicable laws and regulations.**

Standard ship construction Thickness measurements must be carried out in accordance with recognized methods, by authorized persons or companies. Rust and contamination must be removed from the components to be inspected. The surveyor has the right to request that the inspection or more detailed measurements be carried out in his presence. Thickness measurements must be witnessed by the surveyor on board the ship to the extent necessary to control the measurement process. Personnel or companies entrusted with the thickness measurement must be approved by BKI for this purpose. The validity period of the approval given depends on the continuing qualifications. The approval must be renewed after an interval of not more than 3 years. Furthermore, sometimes constrained by the scope of measurement where the scope of this measurement includes the Main hull construction elements In all class renewals the thickness of the plates of the main hull, the construction elements must be checked by measurement. The number of measurements



depends on the condition of the ship's maintenance and in accordance with the surveyor's assessment. The minimum requirements for thickness measurements in class renewal surveys depend on the age of the ship. Each thickness measurement to determine the general corrosion level must be carried out.

The thickness measurement limit may be reduced provided that during close inspection the surveyor is satisfied that there is no structural containment, and that the protective layer, if installed, remains active. The surveyor can expand the thickness measurements as deemed necessary. This is applied especially in areas with a lot of corrosion. Cross sections, on the other hand, are selected in places where a high level of corrosion is suspected or which is visible from measuring the thickness of the deck plate. If the thickness measurement results in corrosion and wear values exceeding those specified, the hull construction part concerned must be replaced. The values stated must be considered as reference values. If necessary, BKI reserves the right to modify the figures found by referring to the maximum permissible tolerances for extensive surface corrosion. Where a reduction in material thickness is permitted for new construction (effective corrosion protection system), the permitted corrosion tolerance shall be based on the regulatory thickness without reduction.

Next, regarding the importance of supervision of the ship's shipping standards, someone who is successful or achieves, is usually someone who has high discipline. Likewise, an orderly, safe, and orderly environment is obtained by implementing discipline properly. Discipline that comes from a sense of awareness and awareness will make someone carry out something in an orderly, smooth and orderly manner without having to be directed by others. Even more than that, the person concerned will feel ashamed or uncomfortable if they do things that are not in accordance with the applicable organizational provisions. This is what is expected of every employee through employee supervision and coaching. There are various factors that make supervision increasingly necessary for every organization, Direct Supervision, carried out by a manager or leader when an activity is being carried out, supervision in the form of direct inspection, namely supervision carried out directly by superiors to subordinates when activities are carried out, to find out the truth of the situation in the field. Making direct corrections, if there are errors in the implementation of work when



direct inspections are carried out. On-site reports, namely reports submitted by subordinates directly when superiors conduct direct inspections of activities being carried out. Indirect supervision, supervision from a distance through reports submitted by subordinates in the form of written reports, namely reports submitted by subordinates to superiors in the form of reports on required activities, reported periodically. Oral reports, namely reports submitted by subordinates directly to superiors regarding obstacles faced when carrying out activities, either in the form of deviations or suggestions.

**Any obstacles from this mixing process produce Fiberglass Reinforced Plastics (FRP) material which has different mechanical properties and characteristics , in accordance with Applicable Legislation.**

The weakness of indirect supervision is that subordinates often only report positive things. In other words, subordinates tend to only report things that they think will please their leaders. In fact, a good leader will demand his subordinates to report both positive and negative things. The reason is that if only positive things are reported, the leader will not know the real situation, as a result of which he will draw the wrong conclusion. This indirect supervision is also an effort to provide encouragement for the improvement and refinement of all aspects of management, both concerning policies and planning, organization, procedures, manuals, standards, criteria, and benchmarks, so that the process of achieving effective and efficient goals can be realized. So indirect supervision of activities carried out is limited to the results of reports made periodically, either in the form of monthly, quarterly reports or recapitulations in one year. Each work unit is required to conduct an evaluation according to the achievements achieved, and then made in the form of a report as required. Supervision will not run well if it only relies on reports. Therefore, indirect supervision is not enough. It is wise for the organization's leaders to combine direct and indirect supervision techniques in carrying out this supervision function. In our opinion, during our use of the ferry services, the supervision carried out by the Transportation Agency has been quite good, they have always controlled the crossing since the accident occurred at that time. And as far as we know, the Transportation Agency also appealed to the captain to always pay attention to the situation so that unwanted errors do not occur. If we talk about supervision, it is quite important, if we





look at the supervision, it is good, they always control the shipping at the port, and so that ship owners can comply with the rules. Although sometimes they like to play cat and mouse with officers.. so in our opinion, the supervision must be tightened again so that accidents like that time due to overloading do not happen again.

From the results of interviews with the public regarding supervision carried out by the Ministry of Transportation, it can be concluded that the supervision carried out by officers of the Ministry of Transportation is quite optimal even though there are still individuals from ship owners who commit violations. So supervision must be tightened even more so that ship owners do not dare to commit violations. In addition to the obstacles mentioned above, the obstacle of the many regulations applied by the Customs and Excise office also functions in supervising ship shipping standards, the Main Customs and Excise Service Office Type B Batam is a combination of the Customs and Excise Supervision and Service Office Type A3 Batam, Type A3 Muka Kuning and Type D Sekupang. The working area of the Batam Type B Main Service Office covers Batam Island with an area of 415 km<sup>2</sup>. Meanwhile, the working area boundaries of the Batam Type B Main Service Office are Singapore (Northwest), Bintan Island (East) and Malaysia (North). Given the fairly large working area and covering the entire island, the Batam Type B Main Service Office has 12 Customs Service Assistance Offices and Customs Supervision Posts or commonly called hangars spread across Batam Island. The hangars are placed at sea and air ports designated as KPBPB (Free Trade Area and Free Port), namely Batu Ampar Container Port, Sarana Citranusa Kabil Port/PT. SembCorp Logistics Citra Nusa, Sewu Industrial Area Port/Beton Sekupang and Hang Nadim Airport. In addition to the Free Trade Area and Free Port, the hangars of the Batam Type B Main Service Office are also located at the Batam Center Customs Post Office and official sea ports that have obtained permits from the Ministry of Transportation, namely:

1. Sekupang Domestic Ferry Port;
2. Telaga Punggur Domestic Ferry Port;
3. Batam Center International Ferry Port;
4. Harbour Bay International Ferry Port;
5. Nongsa Pura International Ferry Port;
6. Sekupang International Ferry Port;



7. The ferry ports of Senimba Bay, Tanjung Uncang and Sagulung.

### **Conclusion**

Legal Regulation of Ship Measurement in Shipping Standards at the Ministry of Transportation of Batam Port, Regulation of the Minister of Transportation and Regulation of the Director General of Land Transportation which aims to improve the safety of River, Lake and Ferry transportation, Organizers of infrastructure and facilities and human resources in the field of river, lake and ferry transportation who violate the fulfillment of transportation safety requirements, Identification and Measurement of Standard Ships and to improve the understanding and awareness of registration officers and physical examiners and standard ship documents regarding the procedures for Identification and Measurement of Standard Ships.

What are the obstacles faced by Ship Measurement in Shipping Standards at the Ministry of Transportation of Batam Port. The failure to check the strength of the hull construction is carried out using the Ultrasonic Wall Thickness Gauge tool which can provide results in the form of plate thickness of the hull construction.

### **Suggestion**

The port as a place for government activities and business activities that is used as a place for ships to dock, embark and disembark passengers, and/or load and unload goods, in the form of a terminal and a place for ships to anchor which is equipped with shipping safety and security facilities and port supporting activities as well as a place for intra- and inter-mode transportation transfers , can run well.

Direct inspections conducted by officers of the Ministry of Transportation by reviewing the field during working hours or operating hours are intended to ensure whether the ship's captain is implementing the regulations in the crossing, such as the ship's loading capacity. and to find out directly the activities being carried out in the field , should always be carried out.



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