

Exclusive Economic Zone Polluted by Oil Spill; Coastal State Loses

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Abstract

Pollution of the marine environment means the introduction by humans, directly or indirectly, of materials or energy into the marine environment which has an adverse effect on marine biodiversity and marine life. The problem is: the First, how is the responsibility of foreign ship companies due to pollution of the marine environment that occurs in Indonesia's exclusive economic zone in terms of the 1982 United Nations Convention on the Law of the Sea? Second, how is the implementation of the 1982 United Nations Convention on the Law of the Sea towards the responsibility of foreign shipping companies due to pollution of the marine environment that occurs in Indonesia's exclusive economic zone? The method used is normative juridical, with a legal principles approach. while the data analysis is a qualitative juridical analysis, namely analyzing problem identification based on secondary data in the form of primary legal materials, secondary legal materials and tertiary legal materials. The results of this study are: First, the responsibility of foreign ship companies due to pollution of the marine environment that occurs in the Indonesian Exclusive Economic Zone is in the form of compensation for losses incurred; Second, the implementation of the 1982 United Nations Convention On The Law Of The Sea against the liability of Foreign Ship Companies Due to Pollution of the Marine Environment that occurred in the Indonesian Exclusive Economic Zone includes ratification of the 1982 United Nations Convention On The Law Of The Sea and provision of witnesses or compensation to perpetrators pollution.

A. Introduction

The United Nations Convention on the Law of the Sea (UNCLOS) 1982 explains that pollution of the marine environment means the introduction by humans, directly or indirectly, of materials or energy into the marine environment, including estuaries, which results in or may lead to bad consequences such as damage to biological wealth, sea and life at sea, danger to human health, disruption of marine activities including fishing and other legitimate uses of the sea, reduction in the usable quality of sea water and reduction in comfort.¹ The issue of protecting the marine environment, especially pollution resulting from oil spills, has been regulated since the "1958 Geneva Convention" regarding the high seas regime, namely in Article 24 of the 1958 Geneva Convention, which reads:

"Every state shall draw up regulations to prevent pollution of the seas by the discharge oil from ships of pipelines or resulting from the exploitation and exploration of the seabed and its subsoil taking account to the existing treaty provisions on the subject".

The above explains that every country is obliged to implement regulations to prevent marine pollution caused by oil originating from ships or sea pipes or caused by exploration and exploitation of the seabed and land beneath it by taking into account the provisions of existing international agreements. on this issue. Regarding pollution resulting from shipping activities, Article 211 of the United Nations Convention the Law of the Sea (UNCLOS) 1982 regulates the responsibilities of coastal states in efforts to prevent pollution of the marine environment. Therefore, referring to Article 211 of the United Nations Convention the Law of the Sea (UNCLOS) 1982 above, it is mandatory for parties who are aware of marine pollution in the waters of a coastal country to notify the polluted coastal country of the pollution.

So, the need for notification is intended so that the consequences of the pollution do not spread and impact the surrounding area. Including in the exclusive economic zone of coastal states. The problem is whether the coastal state has the right to demand compensation if there is pollution of the marine environment in its exclusive economic zone? While the exclusive economic zone is not its sovereign territory? In addition to Article 211 UNCLOS 82 above, Article 56 of the United Nations Convention the Law of the Sea (UNCLOS) 1982 regulates the jurisdictional rights and obligations of coastal States in the exclusive economic zone.²

Article 56 confirms that coastal states have the following rights: First, sovereign rights for the purposes of exploration and exploitation, conservation and management of natural resources, both biological and non-biological, from the waters above the seabed and from the seabed and land below and in connection with other activities for the purposes of exploration and economic exploitation of the zone, such as the production of energy from water, currents and wind; Second,

¹ See Section. 5 About Pollution *United Nation Convention the Law of The Sea* (UNCLOS) 1982.

² Belardo Prasetya Mega Jaya, Agus Prihartono Permana Sidiq, Mohamad Fasyehhudin & Nuryati Solapari (2023): "Republic of Indonesia Sovereign Right in North Natuna Sea according to United Nations Convention on the Law of the Sea 1982", *Australian Journal of Maritime & Ocean Affairs*, Vol 16 No 1 2024.

the jurisdiction as specified in the relevant provisions of this Convention concerns: The creation and use of artificial islands, installations and buildings; Marine scientific research; and, Protection and preservation of the marine environment.

Therefore, Article 56 of the United Nations Convention the Law of the Sea (UNCLOS) 1982, especially point 3 regarding environmental protection and preservation above, shows that coastal states have the right to protect and preserve the marine environment in their EEZ areas. Furthermore, Article 235 of the United Nations Convention the Law of the Sea (UNCLOS) 1982 concerning responsibility and compensation obligations provides space for coastal states to demand responsibility in the form of compensation for ships, including foreign ships, which pollute the Exclusive Economic Zone (EEZ) of coastal states.³

In 1967 there was pollution caused by a ship collision. The tanker “TORREY CANYON” ran aground on the south coast of England & spilled 35 million gallons of crude oil. Another case that caused marine pollution in the EEZ around the Natuna Waters was the collision of the MT Alyarmouk ship with the KM Sinar Kapus in January 2015 which resulted in marine pollution in the Indonesian EEZ as well as Indonesian territorial waters in the Riau Islands.⁴ Apart from the cases above, pollution in the EEZ has also occurred in the Malaysian EEZ due to a ship collision between the Motor Tanker Ship (MT) Wan Hai 301 and MT APL Denver.⁵ The situation of the pollution cases mentioned above is largely influenced or caused by factors: ship collisions; ships run aground; fire ship; sinking ship; falling cargo; passenger and crew activities; normal operation of the vessel: fuel leaks; Lubricating oil leak; fuel and lubricating oil spills; sea water from the propeller shaft and engine cooling installation: due to tank washing; the load spills or falls, etc.

Due to the widespread marine pollution in the EEZ region, this has become a problem in itself for coastal states. Why is that? because the EEZ is not the sovereign territory of the coastal state. In other words, can national law be applied in the territory of a country where the country does not have sovereignty? Apart from that, the provisions in UNCLOS 1982 are only in the form of orders and they are not made in detail regarding the amount of compensation that can be claimed by countries or people who suffer losses because their waters are polluted so they cannot be used to resolve the issue of state responsibility and compensation for pollution that occurs.

Research related to marine environmental pollution was also carried out by Ni Putu Intan Purnami et al with the title Review of international maritime law regarding responsibilities related to environmental pollution due to oil spills in the overlapping exclusive economic zone between Indonesia and Malaysia located in the waters of the Malacca Strait. The issues examined in this research are: what is the actual regulation of international maritime law regarding overlapping claims in the EEZ, especially between Indonesia and Malaysia, and what is the responsibility of ship owners who spill oil in the overlapping area of the Malacca Strait where the EEZ boundaries

³ As the coastal state does not have sovereignty in its EEZ, it can only claim compensation from foreign vessels for pollution of the marine environment caused by the foreign vessel.

⁴ Media Dari Laut, lambung-kapal-tanker-alyarmouk-robek <https://darilaut.id/berita/2015>, diakses tanggal 25, Februari 2023

⁵ Kompas, Tabrakan Kapal Tangker, <https://regional.kompas.com/read/2017/01/06/18550561>, diakses tanggal, 27 Februari 2023.

are not yet clear between Indonesia and Malaysia. The results of this research explain that: First, the problem of overlapping EEZ between Indonesia and Malaysia can be solved by means of delimitation. Second, in the event of a ship accident, the ship owner will be responsible for the country whose waters are polluted in the form of compensation.

Research on pollution in the exclusive economic zone has also been carried out by Aditya Taufan Nugraha and Irman, Legal Protection of the Exclusive Economic Zone for the Existence of Indonesia as a Maritime Country, the results of this research are First, As a country that has a large sea area and potential resources Indonesia has a large sea, of course it has an interest in protecting its territorial waters, especially from security disturbances and also against theft of natural resources at sea. Second, law enforcement in the Indonesian Exclusive Economic Zone is a form of Indonesian defense to protect the state's jurisdiction so that the government can take legal action against perpetrators of violations who enter the Indonesian Exclusive Economic Zone.

So, the studies above are different from the research conducted by the author. The research that the author conducted is specific to whether the responsibilities carried out by the parties carrying out the pollution can normalize the condition of the polluted marine environment? and The form of sanctions against parties who pollute the Exclusive Economic Zone can cover the losses experienced by coastal states?

B. Research Methods

1. Research Specificat

The research specifications used are normative juridical, to provide a complete and systematic description of the system and principles of state responsibility if activities occurring within its territory, or in areas under its control, cause pollution in areas that are not under the state's jurisdiction. As well as providing a clear picture of the principles that can be applied for regulating these areas in the context of environmental protection.

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2. Research Approach

The research approach used is the approach to legal principles and the level of legal synchronization. The data studied is data obtained from library research which refers to the legal norms contained in international regulations and laws and regulations⁶. Secondary legal materials,

⁶ Soerjono Soekanto & Sri Mamudji, *Penelitian Hukum Normatif: Suatu Tinjauan Singkat*, cet. 9, Jakarta: Rajawali Press, 2006, hlm. 23 as quoted by Danial, Afandi Sitamala, and Bekardo Prasetya Mega Jaya, "Keamanan dan Pertahanan Di Selat Sunda, Studi Alur Laut Kepulauan Indonesia", *Jurnal Idea Hukum*, Vol. 6 No. 1 Maret 2020.

especially those related to the development of thinking on the concept of state responsibility, in the form of books, papers and other scientific journals. Primary legal materials include international agreements and international court decisions as well as other tertiary legal materials such as those contained in dictionaries and the Inseklopedia. Then, to draw conclusions in accordance with the research objectives, a qualitative analysis was carried out, namely by interpreting and reconstructing the existing documents.

3. Documents Source

In this research, the type of data used is secondary data which is divided into primary, even secondary legal materials and tertiary legal materials:

- a. Primary legal materials, namely legal materials that are binding in nature and have legal force in the form of international agreements, legislation, etc., consisting of: United Nation Convention the Law of the Sea (UNCLOS) 1982, Law no. 32 of 2009 concerning Environmental Protection and Management Government Regulation no. 19 of 1999 concerning Pollution Control.
- b. Secondary legal materials are books and scientific legal writings related to the object of this research.⁷ Secondary legal materials can come from various books, internet article documents and scientific works related to maritime law.
- c. Tertiary legal materials are materials that provide instructions and explanations for primary and secondary legal materials, in this case namely legal dictionaries, Indonesian dictionaries, English-Indonesian dictionaries, encyclopedias, etc.

4. Document Collection Technique

The method used to collect research data was through library research and internet document access. Document studies are carried out on secondary document including books, research results in the form of reports, and so on, such as books that discuss marine environmental pollution. Secondary document was obtained from primary legal and secondary and tertiary legal materials.

5. Analisis Data

This research was analyzed using qualitative juridical analysis, namely a technique that describes and interprets legal material that has been collected to obtain a general and comprehensive picture of the actual situation. Juridical qualitative analysis, is research by analyzing statutory regulations, and reference books and the data obtained is then analyzed qualitatively which will provide a comprehensive picture of the legal aspects related to the problem to be researched.

⁷ Zaenudin Ali, *Metode Penelitian Hukum*, Sinar Grafika, Jakarta. 2011. p. 106

6. Location

Research was conducted at the Sultan Ageng Tirtayasa University Postgraduate Program library, the Padjadjaran University Faculty of Law library, as well as at several government agency libraries.

C. Result and Discussion

1. Liability for Pollution in the Exclusive Economic Zone

The exclusive economic zone is an area outside and adjacent to the territorial sea which is subject to a special legal regime established based on the rights and jurisdiction of the coastal state and the rights and freedoms of other states.⁸ The EEZ region has a sui generis (unique/different) legal status. In EEZ coastal countries only have sovereign rights, which are limited to the exploration and exploitation of marine resources both biological and non-biological resources.⁹ On the other word, Coastal state jurisdiction within the EEZ is not unlimited and does not equate to full sovereignty.¹⁰

The development of the concept of exclusive economic zones began with President Truman's Proclamation in 1945 regarding fisheries, which recognized the rights of other countries to establish marine areas outside their countries' coasts.¹¹

In connection with the concept of exclusive economic zones, the I and II Maritime Law Conferences have failed to determine the boundaries of fisheries zones. It was only at the Law of the Sea III conference that the exclusive economic zone was regulated and constituted a separate regime, namely the rights and jurisdiction of coastal states to carry out certain actions in the exclusive economic zone. The EEZ is an area of sovereign rights in the utilization of fisheries resources.¹² The regulation regarding the rights and jurisdiction of coastal states is a new arrangement and brings about fundamental changes to the law of the sea, where there is a separation of the territorial sea which is the sovereign zone of coastal states and the high seas which is open to all countries.

Even though the coastal state is given rights and jurisdiction within a 200 mile sea zone, this situation does not change the legal status of that sea zone as the high seas. The exclusive economic zone is a region or area located outside and adjacent to the territorial sea. This shows that the exclusive economic zone is outside the state's territory or is not part of the state's territory, but the coastal state concerned has certain rights and

⁸ Article 55 UNCLOS 1982

⁹ Belardo Prasetya Mega Jaya, Afandi Sitamala, and Dania, *State Exclusivity of Fisheries Resources on Exclusive Economic Zone in Efforts to Support the Fisheries Availability as a Means of Increasing Food Security for the State*, *Atlantis Press*, Vol 9, 2019

¹⁰ Belardo Prasetya Mega Jaya and Muhamad Uut Lutfi, "The Law Enforcement Towards Foreign Vessels which did Illegal, Unreported and Unregulated Fishing (IUU- Fishing) in Indonesia Fisheries Management Areas", Vol. 20 Issue 1, January 2020.

¹¹ Chairul Anwar, *Exclusive Economic Zone, In International Law*, First Prints, Sinar Graphics, Jakarta, 1995, p. 5.

¹² Mas Nana Jumena and Belardo Prasetya Mega Jaya, *Penegakan Hukum Iuu -Fishing yang Dilakukan oleh Kapal Asing di Laut Natuna pada Era Otonomi Daerah*, Aura Publishing, 2019, p. 229.

jurisdiction.¹³ However, in the exclusive economic zone the rights and freedoms of other countries are also recognized.

The width of the exclusive economic zone is confirmed in Article 57 of UNCLOS as follows: "The exclusive economic zone shall not extend beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured". In connection with the rights and obligations of coastal states in the exclusive economic zone, other countries also have rights and freedoms which are not only regulated in UNCLOS, but are also recognized and justified by International Maritime Law. The rights and freedoms of other countries include, for example, freedom of navigation or operation of their ships, laying cables and pipelines under the sea or on the seabed and flying over them. In connection with the implementation of the rights and freedoms of other countries, coastal states are obliged to respect the rights and freedoms of other countries, on the other hand, in implementing their rights and freedoms, other countries are also obliged to respect the rights, powers and jurisdiction as well as the laws and regulations of the coastal state concerned.¹⁴

Therefore, in the event of marine pollution, this is an event where polluting materials such as chemical particles, industrial waste, agricultural and housing waste enter the sea, which can damage the marine environment. These hazardous materials have various impacts in waters.¹⁵ There are direct and indirect impacts. Most sources of marine pollution come from land, either blown by the wind, washed away, or through spills. One of the causes of marine pollution is ships which can pollute rivers and oceans in many ways. For example, through oil spills, filter water and fuel residue. Pollution from ships can contaminate ports, rivers and oceans. Ships also create noise pollution which disturbs the life of aquatic organisms, and air from ballast tanks which can affect the water temperature thereby disturbing the comfort of organisms living in the water, which then creates liability.

In the case of MT tanker collision. Showa Maru in 1975 in the Malacca Strait, which resulted in losses for several coastal states, both in terms of economy and ecology, namely Indonesia, Malaysia and Singapore. However, this regulation is limited to the territorial seas of member countries, so that when pollution occurs outside the territorial sea, especially in the Exclusive Economic Zone, Indonesia does not receive adequate compensation (such as the case of the Nagasaki Spirit tanker collision in 1992). Why is that? because there are different regimes between the Exclusive Economic Zone and the territorial sea, which are also related to the protection and preservation of the marine environment. All of this is regulated in the United Nations Convention on the Law of the Sea.

¹³ *Ibid.*

¹⁴ P. Joko Subagyo, *Indonesian Maritime Law*, Rineka Cipta, Jakarta, 2002, p. 71.

¹⁵ Albert W Koers, *United Nations Convention Concerning the Law of the Sea, A Summary*, translator Rudi M. Rizki, Wahyuni Bahar, Second Cet., Gadjah Mada University Press, Yogyakarta, 1994, p. 41

State responsibility in international law is basically based on the idea that no country can enjoy its rights without respecting other countries. Every violation of another country's rights causes that country to be obliged to repair it or in other words to take responsibility for it. This is actually a normal thing in the legal system where a violation of a legally binding obligation will result in responsibility for the violator.¹⁶

Accountability is a condition of having to bear everything or consequences arising from an action, whether in the form of negligence or error. Based on the Dictionary of Law, the state's responsibility is "*Obligation of a state to make reparation arising from a failure to comply with a legal obligation under international law.*" Which means that state responsibility is an obligation to make improvements arising from a state's mistakes in complying with legal obligations based on international law.

According to Sugeng Istanto, accountability means the obligation to provide an answer which is an accounting of all things that happen and the obligation to provide compensation for losses that may be caused.¹⁷ Every individual, group or country that commits an action that harms another person can be prosecuted and held accountable.

State responsibility in international law is defined as an obligation that a state must carry out towards other states based on international law orders. Accountability means the obligation to provide an answer which is an accounting of something that happened, and the obligation to provide compensation for losses that may result. In national law there is a distinction between civil and criminal liability, likewise in international law there are several provisions that are similar to national law but these are not prominent. In addition, international law regarding accountability has not developed rapidly.¹⁸ In the national legal system, criminal or civil liability is based on the error committed by a person. Likewise, in the international legal system, every act that is blamed can be held accountable. International Responsibility or what is often called State Responsibility in International law is a principle in international law which regulates the emergence of responsibility of a country towards another country due to the mistakes or negligence of a country which has an impact on the country or people. other. Basically, a negligence or mistake made by a country can have an impact, if the impact is felt by another country then a responsibility arises which in international law is called the principle of International Responsibility.

Therefore, preserving the marine environment has become an obligation and shared responsibility for countries (International Responsibility) that have beaches and those that do not. Guided by the principle that the sea is the common heritage of mankind, the role of government at the national and international levels is urgently needed. The United Nations Convention on the Law of the Sea 1982 as a maritime regulation according to international law further regulates the protection and preservation of the marine

¹⁶ Sefriani, *Hukum Internasional*, Raja Grafindo Persada, Jakarta, p. 266.

¹⁷ F. Soegeng Istanto, *International Law*, UAJ Yogyakarta, Yogyakarta, 1994, p.77

¹⁸ D.J. Harris, *Cases and Materials on International Law*, Sweet and Maxwell, London, 1982, p. 374.

environment both in the territorial sea and in the Exclusive Economic Zone. It is the obligation of countries in the world to participate in the protection and preservation of the marine environment.¹⁹ States should cooperate on a global basis and, where necessary, on a regional basis, directly or through competent international organizations, in formulating and explaining provisions, standards and internationally recommended practices and procedures. consistent with this Convention for the purposes of protection and preservation of the marine environment, taking into account distinctive regional features.²⁰ Therefore, to ensure the protection and preservation of the marine environment, the principle of strict liability and the role of international law need to be maximized.

The principle of absolute responsibility (strict liability) is a principle of responsibility without the need to prove fault. In other words, strict liability is a principle of responsibility that views 'fault' as something that is irrelevant to question whether it actually exists or not.

Regarding responsibility and compensation obligations in the event of marine pollution, it is regulated in the 1982 United Nations Convention on the Law of the Sea (UNCLOS). Article 56 confirms that: First, States are responsible for fulfilling their international obligations with regard to protection and preservation of the marine environment. They must assume compensation obligations in accordance with international law; Second, States must ensure the availability of measures under their legal systems to obtain prompt and adequate compensation or other assistance in connection with damage caused by pollution of the marine environment by individuals or legal entities under their jurisdiction; Third, with the aim of ensuring immediate and adequate compensation for all losses caused by pollution of the marine environment, States must cooperate in implementing applicable international law and further develop international law relating to responsibility and compensation obligations. for the assessment of compensation for damage and the resolution of disputes arising, as well as, where necessary, developing adequate compensation payment criteria and procedures such as mandatory insurance or compensation funds.

Therefore, Article 194 of UNCLOS 82 states that countries must take all necessary actions to prevent, reduce and control pollution of the marine environment from any source.²¹ In taking measures to prevent, reduce and control pollution, each country must do so in such a way as not to transfer the damage or danger from one area to another, or change it from one type of pollution to another.²²

Furthermore, this Convention places an obligation on every country to take all measures to prevent, reduce and control pollution of the marine environment resulting

¹⁹ Abdul Muthalib Tahar, *Hukum Laut Internasional*, Justice Publisher, Bandar Lampung, 2015, p. 311.

²⁰ Article 197 United Nations Convention on the Law of the Sea 1982.

²¹ Article 194 United Nations Convention on the Law of the Sea 1982.

²² Article 195 United Nations Convention on the Law of the Sea 1982.

from the use of technology under its jurisdiction or control, or the introduction, intentionally or not, of foreign or new types, into certain parts. marine environment, which can result in important and detrimental changes to the marine environment.²³

In adhering to the principle of absolute responsibility (strict liability), it is hoped that it can provide a harmonious balance between various interests, including guaranteeing Indonesia's national interests as a coastal country and ensuring efforts to preserve the archipelago's marine environment as well as providing adequate space for the petroleum industry and service development. sea transportation.

2. Forms of Sanctions Against Parties Who Pollute the Exclusive Economic Zone

The coastal state's law enforcement jurisdiction over maritime pollution by ships is somewhat limited to certain provisions. Article 220 paragraph (2) UNCLOS explains that if there is a clear basis for a ship sailing in a maritime country zone, during its journey it has violated national and international laws and regulations for the prevention of pollution, it can carry out a physical inspection, inspection at the trial institution and detention boat. there are clear grounds that a ship has committed a violation of international regulations applicable in the exclusive economic zone, the state may request the ship to provide information regarding its identity and port of registration, last and subsequent ports as well as other relevant information necessary to determine whether there has been a violation of international rules and regulations that apply in preventing pollution that occurs.

Furthermore, based on Article 211 of UNCLOS, paragraphs 4 and 5, coastal states are given the right to have laws and regulations relating to territorial sea zones and exclusive economic zones to prevent pollution from foreign ships. Article 211 paragraph (6) UNCLOS states that for special areas of coastal states special laws and regulations must be in place to protect the marine environment in those areas. It also describes detailed procedures for the implementation of mandatory regulations in their exclusive economic zones that require certain procedures to be complied with, including their relations with international organizations in maritime matters.

Based on this, in the event that a ship commits a violation of the exclusive economic zone that causes or threatens significant pollution and fails to provide relevant information, the state can carry out a physical inspection of the ship for matters related to the violation in that situation.

Apart from UNCLOS 82, The International Oil Pollution Compensation Funds (IOPCFunds) also regulates sanctions or compensation. This convention was formulated to provide compensation for oil pollution damage caused by tankers which was established by two agreements under the supervision of IMO, namely: *The International Convention on Civil Liability for Oil Pollution Damage (Civil Liability Convention) 1992*

²³ Article 196 United Nations Convention on the Law of the Sea 1982.

dan *The International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage (Fund Convention) 1992*. In the *Civil Liability Convention* regulates the responsibilities of ship owners, while the *Fund Convention* provides additional compensation if the amount paid under the 1969 CLC is insufficient.

The amount of *Fund Convention* by the 1992 *Fund Convention* is 203 SDR or the equivalent of US\$ 280 million. *Fund Convention* is available to states, local governments, private companies and individuals such as fishermen. The *Fund Convention* is financed through oil taxes received from member countries based on the transport they carry by sea, where this convention has 114 member countries. So it is hoped that with the *Fund Convention*, the country's marine environment which has been polluted due to the impact of oil spills from ships can be helped to restore the damage experienced to the marine environment.²⁴

Furthermore, *International Convention on Civil Liability for Bunker Oil Pollution Damage (Bunker Convention) 2001* also regulates responsibilities arising from pollution. Article 1 paragraph (9) of the *Bunker Convention* explains the damage caused by pollution, namely:

1. *loss or damage caused outside the ship by contamination resulting from the escape or discharge of bunker oil from the ship, wherever such escape or discharge may occur, provided that compensation for impairment of the environment other than loss of profit from such impairment shall be limited to costs of reasonable measures of reinstatement actually undertaken or to be undertaken; and*
2. *the costs of preventive measures and further loss or damage caused by preventive measures.*

These international provisions complement each other to improve, prevent, and their effective implementation will provide a clean marine environment with environmentally friendly shipping throughout the world. If in the future there is a case of international marine environmental pollution which could be detrimental to the country due to its impacts, then the provisions mentioned above can be used as a reference for dispute resolution mechanisms and can provide responsibility for the parties so that diplomatic relations between the parties to the dispute are maintained.

Responsibility and compensation obligations also exist in the case of marine scientific research for damage resulting from such actions. Competent countries and international organizations must be responsible and have the obligation to pay compensation for actions carried out in violation of this Convention regarding marine scientific research carried out by other countries, individuals or legal entities or by other organizations. competent international organizations. Furthermore, countries and competent international organizations must be responsible and have an obligation to pay compensation for damage caused by pollution of the marine environment arising from marine scientific research conducted or on their behalf.

²⁴ Look *Fund Convention 1992*.

In Indonesian national law, the Government is responsible for controlling marine pollution and/or destruction, as regulated in Government Regulation (PP) No. 19 of 1999 concerning Control of Marine Pollution and/or Destruction. The minister's duty is to supervise those responsible for businesses and/or activities that can cause marine pollution and/or damage. Indonesia, with its position as a crossroads for world maritime transportation, has responsibility for deep waters in accordance with archipelagic countries. The state's responsibility for marine pollution carried out by individuals and legal entities is to handle prevention, control, overcoming pollution and paying compensation to the parties.²⁵

Therefore, in the case of marine pollution due to the accident between the MV Kapuas (Singapore) and the MT Alyarmouk (Libya) ship on January 2 2015 which occurred in Indonesian territorial waters (EEZ). The collision resulted in the tearing of the hull of the MT Alyarmouk ship which was on a voyage to China and is estimated to have spilled around 4,500 tonnes of crude oil.

Thus, the oil spill from the ship entered Indonesian waters and resulted in losses for the country, such as damage to Indonesia's marine ecosystem, and the fishermen's economy declined because a lot of marine biota was contaminated. In this case of ship collision, ideally all related work areas should coordinate well in order to produce factual evidence to submit a liability claim.²⁶

First, subjective fault criteria which explain the importance of errors, both *dolus* and *culpa*, against perpetrators of pollution to determine state responsibility. Second, objective fault criteria, namely, the existence of state responsibility arising from a violation of an international obligation, however, if a state can demonstrate the existence of force majeure or the existence of third party actions, the state concerned can be freed from this responsibility. Third, strict liability which burdens the state with responsibility for actions or inaction that occur in its territory which cause pollution and result in losses in the territory of other countries. Fourth, absolute liability explains that the state can still be held responsible, even though there is force majeure or forgiving reasons.²⁷

So, in the case of an accident that occurred between the ship MT Alyarmouk and MV Sinar Kapuas, the Indonesian government has the right to demand from Singapore and Libya in the form of material and immaterial compensation for the losses caused. In addition, Indonesia can demand recovery which includes restitution, compensation.

Thus, the state is obliged to regulate and supervise every activity that occurs within its territory, whether national or international in nature, where these activities can cross

²⁵ Ahmad Syofyan, "Tanggung Jawab Dalam Pencemaran Laut Yang Disebabkan Oleh Minyak Menurut Hukum Internasional", *Jurnal Inspirasi*, No. X Edisi Juli 2010, p. 152.

²⁶ <https://darilaut.id/berita/tabrakan-2015-lambung-kapal-tanker-alyarmouk-robek> diakses tanggal 11 Juni 2023.

²⁷ <http://repository.uki.ac.id/cgi/users/login?target=http%3A%2F%2Frepository.uki.ac.id%2F7860%2F7%2FDaftarPustaka.pdf> diakses tanggal 11 Juni 2023.

its state borders and cause harm to other countries. limitation of liability for compensation to polluting countries caused by oil spills from ships, namely: *“The total amount of compensation payable for any one incident will be limited to a combined total of 750 million Special Drawing Rights (SDR) including the amount of compensation paid under the existing CLC/Fund Convention.”*²⁸ Based on the above, it is appropriate for Singapore and Libya to provide alert handling, transparency in dealing with oil spills and take responsibility for the losses experienced by Indonesia.

D. Conclusion

The responsibility of foreign shipping companies due to marine environmental pollution that occurs in the Indonesian Exclusive Economic Zone based on the United Nations Convention on the Law of the Sea 1982 is absolute responsibility (Strict Liability). In this case, the obligation to pay compensation to the coastal state arises immediately when oil spills at sea and losses arise, regardless of whether the ship concerned is at fault or not. So that in cases of marine environmental pollution, the perpetrator is absolutely responsible for the losses they cause. including restoring quality standards for polluted environments and other losses caused. The form of sanctions against parties who pollute in the Exclusive Economic Zone has covered the losses experienced by coastal states, namely payment of compensation through international insurance such as TOVALOP and Cristal or through the International Oil Pollution Compensation Fund.

²⁸ Article 34 Draft Articles ILC.

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