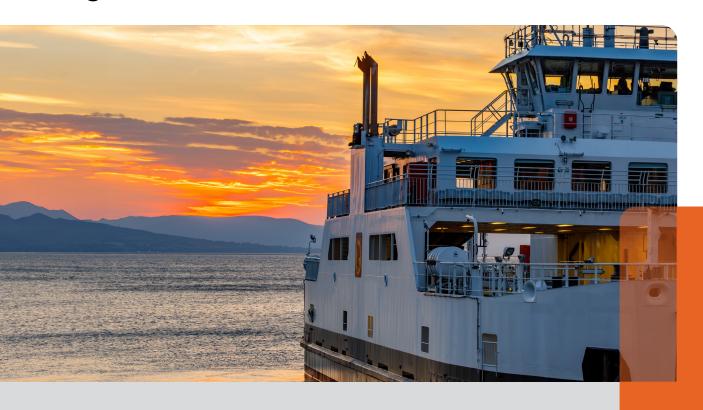
International Comparative Legal Guides



Shipping Law

2024

11th Edition

Contributing Editor.

lan Teare Hill Dickinson



Q&A Chapters

- Angola
 Vieira de Almeida: José Miguel Oliveira,
 Francisco Campos Braz, Bernardo Kahn &
 Hermenegildo Simão
- 9 Argentina
 Venetucci Maritime: Francisco J. Venetucci
- Belgium

 Kegels | Advocaten: André Kegels
- Chile
 Tomasello & Weitz: Leslie Tomasello Weitz
- China
 Wintell & Co: Mervyn Chen, Dr. James Hu,
 Patrick Xu & Jasmine Liu
- Q.E.D INTERLEX CONSULTING SRL:
 Luis Lucas Rodríguez Pérez
- 47 Cyprus
 Montanios & Montanios LLC: Yiannis Papapetrou
- 55 Dominican Republic
 Q.E.D INTERLEX CONSULTING SRL:
 Luis Lucas Rodríguez Pérez
- Egypt
 Eldib Advocates: Mohamed Farid, Ahmed Said &
 Ahmed Fahim
- 70 France Richemont Delviso: Henri Najjar
- Ghana
 Templars: Augustine B. Kidisil,
 Paa Kwame Larbi Asare & Matilda Sarpong
- Greece
 LCI Law: George latridis, George Pezodromos,
 Spyridoula Rapti & Anna Kleida
- 93 Hong Kong
 Tang & Co. (in association with Helmsman LLC,
 Singapore): Tang Chong Jun & Sherry Ng
- 101 India
 Mulla & Mulla and Craigie Blunt & Caroe:
 Shardul J Thacker
- Indonesia
 Ali Budiardjo, Nugroho, Reksodiputro:
 Emir Nurmansyah, Ulyarta Naibaho,
 Muhammad Muslim & Adithya Lesmana
- Harris & Co. Maritime Law Office: Adv. Yoav Harris,
 Adv. John Harris (1940-2023) & Adv. Domiana Abboud

- Japan
 Mori Hamada & Matsumoto LPC: Hiroshi Oyama,
 Fumiko Hama & Yoshitaka Uchida
- Choi & Kim: C. J. Kim, J. H. Shin & M. H. Lim
- 140 Malta
 Dingli & Dingli: Dr. Tonio Grech & Dr. Fleur Delia
- Murillo Romero Attorneys: Rafael Murillo Rivas
- 152 Mozambique
 Vieira de Almeida: José Miguel Oliveira,
 Francisco Campos Braz, Kenny Laisse &
 António Pestana Araújo
- Nigeria
 Bloomfield LP: Adedoyin Afun & Michael Abiiba
- Panama
 Arias, Fábrega & Fábrega: Jorge Loaiza III
- Poland Rosicki, Grudziński & Co.: Maciej Grudziński & Piotr Rosicki
- Singapore
 Gurbani & Co: Govintharasah Ramanathan,
 Yawen Zheng & Lin Shangshuo
- Spain
 Kennedys: José Pellicer & Paula Petit
- 210 Sweden
 Advokatfirman Vinge KB: Michele Fara, Ninos Aho,
 Paula Bäckdén & Anders Leissner
- Taiwan
 Lee and Li, Attorneys-at-Law: Daniel T. H. Tsai
- Turkey/Türkiye
 TCG FORA Law Office: Sinan Güzel
- United Arab Emirates
 Primecase: Mohammad Alshraideh &
 Dr. Mohammad Zaidan
- 240 United Kingdom Hill Dickinson: Ian Teare & Reema Shour
- USA Chalos & Co, P.C.: George M. Chalos & Briton P. Sparkman
- 254 Venezuera
 Sabatino Pizzolante Abogados Marítimos &
 Comerciales: José Alfredo Sabatino Pizzolante &
 Iván Darío Sabatino Pizzolante

Indonesia



Emir Nurmansyah



Ulyarta Naibaho



Muhammad Muslim



Adithya Lesmana

Ali Budiardjo, Nugroho, Reksodiputro

1 Marine Casualty

1.1 In the event of a collision, grounding or other major casualty, what are the key provisions that will impact upon the liability and response of interested parties? In particular, the relevant law / conventions in force in relation to:

(i) Collision

According to the Indonesian Commercial Code ("ICC"), the liability in a vessel collision is determined based on the degree of fault attributed to each party involved.

Article 535 of the ICC stipulates that:

"If a collision is attributable to a fortuity or if it is due to force majeure of if there is any doubt regarding the causes thereof, the loss or damage shall be borne by whoever has sustained it".

Article 536 of the ICC stipulates that:

"In the event such ship collision [is] as [a] result of fault of one of the colliding ships or due to the fault of the other ship, the owner of ship who committed the fault shall be liable to for the whole damage".

Article 537 of the ICC stipulates that:

"If each ship involved in the collision is to blame therefore the owners" liability shall be proportionate to the degree of fault on each side.

The ratio shall be established by the Court without having to be indicated by the party claiming damages. If this ratio cannot be determined the owners of the ships shall be liable in equal shares.

In case of [death] or injury each owner shall be liable to third parties for the whole of the loss or damage thereby sustained. The owners who in consequence [have] paid more than [their] share computed as indicated in the first paragraph hereof shall have a remedy in respect thereof against those who are liable with [them]".

Proving the liability of a vessel in a collision hinges primarily on establishing fault, which is closely tied to the professionalism of the ship's crew in shipping practice. Furthermore, according to Article 249 of Law No. 17 of 2008 on Shipping Law as amended by Law No. 6 of 2023 ("Shipping Law"), the responsibility for a collision lies with the master of the vessel, unless evidence proves otherwise. However, the master may be exempted from liability if they have taken appropriate measures and fulfilled their obligations as prescribed by the relevant laws and regulations.

Regarding claims pertaining to collisions, they must be filed within two years from the date of the collision or when the damage becomes apparent. Please be informed that Indonesia has also ratified the Convention on the International Regulations for Preventing Collisions at Sea of 1972 through Presidential Decree No. 50 of 1979.

(ii) Pollution

Every vessel that operates or sails in Indonesian waters must meet the requirements for seaworthiness, which encompass measures for preventing marine pollution. The owners or operators of these vessels are also obligated to obtain and maintain an insurance policy to cover pollution liability. In accordance with Article 231 of Shipping Law, the owners or operators bear strict responsibility for any pollution caused by their vessels. Failure to comply with these regulations can result in fines or imprisonment. In the context of pollution, Indonesia has ratified several international conventions. These include the United Nations Convention on the Law of the Sea of 1982 through Law No. 17 of 1985, the International Convention for the Prevention of Pollution from Ships of 1973 (as amended by the Protocol of 1978 and Protocol of 1997) through Presidential Decree No. 46 of 1986 and Presidential Regulation No. 29 of 2012, as well as the International Convention on Civil Liability for Oil Pollution Damage of 1969 and its 1992 amendment ("CLC") through Presidential Decree No. 52 of 1999.

(iii) Salvage / general average

Indonesia has not officially ratified any salvage conventions. The regulations governing salvage operations are outlined in the Minister of Transportation Regulation No. 71 of 2013 on Salvage and/or Underwater Works, as amended several times (MOT Reg No. 71/2013). This regulation defines the scope of salvage activities, which include providing assistance to vessels and/or their cargo in distress or a shipwreck, lifting and removing vessel hulls and cargo, and lifting and removing underwater obstacles or other objects. Only companies specialising in salvage operations are permitted to carry out such activities, and they must obtain the necessary permits from the relevant agency.

Regarding general average, its principles are stipulated in the ICC. General average refers to a situation where intentional sacrifices or expenses are incurred to save a ship and its cargo. The costs incurred are then distributed proportionally (pro rata) between the shipowners and cargo owners.

(iv) Wreck removal

Since Indonesia is a party to the Nairobi International Convention on the Removal of Wrecks of 2007, shipowners bear strict liability under the convention. However, they may be absolved of liability based on limited defences. Additionally, as stated in Article 203 of the Shipping Law, shipowners are obligated to remove any shipwrecks that impede navigation within 180 days of the vessel's sinking. Failure to do so grants the Indonesian Government the authority to remove the wreck at the owners' expense.

Shipping Law 2024

Under MOT Regulation No. 71/2013, vessel owners are also required to obtain wreck removal insurance or protection and indemnity insurance from an insurance company recognised by the Indonesian Government. This mandate does not apply to war vessels, state vessels used for governmental duty, and motor vessels with a gross tonnage below 35 tonnes.

(v) Limitation of liability

Indonesia has not ratified any international conventions that specifically address limitation of liability for general maritime claims. However, according to the ICC, shipowners can limit their liability for cargo claims and claims arising from collisions with other vessels.

Under Article 541 of the ICC, shipowners' liability for collision damage is limited to f.50 (50 guilders) per cubic meter of the vessel's net volume added. Provided that the owners are also the carriers of goods, the responsibility over the damage suffered on the goods transported by the vessel must be same as the above limitation. It is important to note that this provision is no longer fully applied in practice due to the very low limitation amount, which is not suitable for the current situation. This is due to the fact that the ICC was established during the Dutch colonial era. Instead, judges nowadays would interpret and determine a more appropriate amount, although it should be noted that the defendant must argue for the limitation of liability in its defence.

Additionally, carriers are unable to limit their liability in cases of deliberate acts or gross negligence, as stipulated in Article 476 of the ICC.

(vi) The limitation fund

In Indonesia, the requirement to establish a limitation fund applies solely to the limitation of liability for oil spill incidents, as stated in Article V, paragraph 3 of the CLC. Despite this, Indonesia is now a former party to the 1971 Fund Convention and currently maintain the observer status with the 1992 Fund Convention. Indonesian law does not have specific provisions governing the type of security to be deposited when establishing a limitation fund. Consequently, commonly used forms of security such as cash deposits and P&I Letters of Undertaking ("LOU") are generally deemed acceptable.

1.2 Which authority investigates maritime casualties in your jurisdiction?

Pursuant to Government Regulation No. 9 of 2019 on Vessel Incident Investigation and MOT Regulation No. 6 of 2020 on Vessel Incident Investigation Procedure, the master of a vessel is required to take proactive measures, seek assistance, notify others about a vessel incident, and report the incident if they become aware of or experience one. The report serves as preliminary evidence during the initial examination of the incident.

The preliminary investigation will be carried out by the harbour master or government official appointed by the MOT (e.g., vessel safety investigator, seaworthiness and marine security investigator) and a follow-up investigation may be conducted by the Admiralty Court (Mahkamah Pelayaran), in respect of the seamanship professionalism. If the vessel incident involves criminal allegations, a criminal investigation can be carried out by either the relevant civil service investigating officer or the Indonesian police. The National Transportation Safety Committee (Komite Nasional Keselamatan Transportasi or "KNKT") is also authorised to investigate vessel incidents to prevent similar occurrences in the future. In the event that a vessel incident results in damages to a party, the affected party has the option to file a civil claim with the appropriate District Court.

1.3 What are the authorities' powers of investigation / casualty response in the event of a collision, grounding or other major casualty?

Please refer to our response provided for question 1.2 above.

2 Cargo Claims

2.1 What are the international conventions and national laws relevant to marine cargo claims?

Indonesia has not ratified any international conventions regarding claims related to marine cargo. As a result, the resolution of such claims will be based on local laws and regulations (i.e., ICC, Civil Code, Shipping Law, and other applicable legislation). These laws stipulate that carriers are responsible for compensating losses arising from their failure to deliver the cargo or a part thereof, as well as any damage to the cargo, unless the damage or failure was caused by *force majeure*, or the cargo was already defective upon receipt, or it was damaged due to the shipper's fault or negligence.

The ICC includes provisions that limit the liability of carriers for cargo claims. However, these limitations are rarely enforced by the courts in recent days. Furthermore, according to Article 513 of the ICC, if the bill of lading contains a clause, such as "content, nature, amount, weight, or size unknown" or a similar provision, the carriers will not be held responsible for any cargo claims, unless they should have been aware of the condition and type of the cargo or if the cargo was quantified before being handed over to the carriers.

2.2 What are the key principles applicable to cargo claims brought against the carrier?

Kindly refer to our response provided earlier in relation to question 2.1 above.

2.3 In what circumstances may the carrier establish claims against the shipper relating to misdeclaration of cargo?

Unless the carriers had prior knowledge or should have reasonably known about the nature of the cargo before the voyage, they have the right to seek compensation for any damage resulting from incorrect or insufficient information regarding the cargo.

2.4 How do time limits operate in relation to maritime cargo claims in your jurisdiction?

In the absence of any contrary agreement made between the parties, Article 741 of the ICC establishes a one-year timeframe within which legal claims concerning payment by the consignee, carriage of passengers and luggage against the carrier, and compensation for cargo damage, must be brought. This one-year period is calculated from either the completion of the voyage or the date when the vessel did not arrive at the intended destination port.

3 Passenger Claims

3.1 What are the key provisions applicable to the resolution of maritime passenger claims?

Indonesia has not ratified the Athens Convention of 1974 relating to the Carriage of Passengers and their Luggage by Sea of 1974, or its Protocols. According to the ICC, carriers are required to ensure the safety of passengers from the moment of boarding until the disembarkation from the ship. In cases where personal injury occurs, carriers must demonstrate that it was caused by an unavoidable event or the passenger's own negligence. Failure to establish this defence obligates the carriers to compensate the passengers for their losses. In the unfortunate event of a passenger's death resulting from an injury, carriers are obligated to provide compensation to the spouse, children, and parents of the deceased passenger. If the transportation of passengers is carried out under an agreement with a third party, the carriers are responsible to both the third party and the passenger's direct descendants. The ICC sets forth limitations on liability for passenger claims, although courts rarely enforce these provisions.

3.2 What are the international conventions and national laws relevant to passenger claims?

Indonesia has not ratified any international conventions pertaining to passenger claims. Therefore, the process for filing passenger claims in Indonesia will be based on the provisions of the ICC.

3.3 How do time limits operate in relation to passenger claims in your jurisdiction?

Article 741 of the ICC stipulates a one-year time limit for passenger claims.

4 Arrest and Security

4.1 What are the options available to a party seeking to obtain security for a maritime claim against a vessel owner and the applicable procedure?

When filing a civil lawsuit, a party could file a conservatory attachment over the vessel owner's assets, including the vessel itself. Furthermore, according to the provisions of the Shipping Law, the harbour master has the authority to arrest a vessel at the port where it is currently situated, based on a written court order, if the vessel is implicated in either criminal or civil case proceedings. Specifically, in civil cases concerning maritime claims, the Shipping Law allows for the arrest of a vessel by the harbour master without the need to initiate civil court proceedings. However, it is worth noting that the law itself is silent on several important issues, such as whether an arrest can be granted against foreign flagged vessel in a maritime claim, the procedure, time and costs necessary to arrest a vessel, procedure to release the vessel, provisions relating to the security to replace the arrest, counter security, definition of wrongful arrest. These issues create several unanswered legal issues and thus there is no legal certainty whether Indonesian courts will issue an arrest order if a party requests for it.

4.2 Is it possible for a bunker supplier (whether physical and/or contractual) to arrest a vessel for a claim relating to bunkers supplied by them to that vessel?

A bunker supplier may have the option to apply for the arrest of a vessel based on the bunkers they have supplied. To initiate the arrest process, the bunkers supplied are outlined in our response to question 4.1 above.

4.3 Is it possible to arrest a vessel for claims arising from contracts for the sale and purchase of a ship?

Claims arising from contracts for the sale and purchase of a ship are considered civil disputes (breach of contract claim). The party suffering damage due to such breach of contract may have the option to apply for the arrest of the vessel using the procedure outlined in our response to question 4.1 above.

4.4 Where security is sought from a party other than the vessel owner (or demise charterer) for a maritime claim, including exercise of liens over cargo, what options are available?

By means of Presidential Regulation No. 44 of 2005, Indonesia has ratified the International Convention on Maritime Liens of 1993. Nevertheless, the practical implementation of maritime liens is not explicitly defined within Indonesian Law. Therefore, there is a notable chance that the exercise of maritime liens may not be effectively carried out in Indonesia.

However, according to Articles 65 and 66 of the Shipping Law, it is explicitly stated that vessel owners, charterers, managers, or operators have a legal obligation to prioritise the payment of prioritised maritime receivables (*piutang pelayaran yang didahulukan*). These receivables include various types of payments and costs related to the vessel and its operation that include the following:

- the encompassing of salaries and other payments to the vessel's master, crew, and complementary crew, including repatriation costs and social insurance contributions;
- the cover of condolence money for deaths or medical expenses resulting from injuries directly related to the vessel's operation;
- 3. salvage costs;
- port and shipping line expenses, as well as pilotage costs;
 and
- losses incurred due to physical loss or damage caused by the vessel's operation, excluding losses or damages to cargoes, containers, and passengers' belongings.

Furthermore, there are certain costs arising from salvage operations conducted by the Indonesian government for wreck removal to ensure navigation safety or protect the maritime environment, as well as repair costs owed to shipyards or dockyards (retention right) if the vessel is moored in an Indonesian shipyard or dockyard during a forced sale.

It is important to note that these prioritised maritime receivables (*piutang pelayaran yang didahulukan*) and associated costs take precedence over the payment of pledge, shipping mortgage, and registered receivables.

4.5 In relation to maritime claims, what form of security is acceptable; for example, bank guarantee, P&I letter of undertaking?

There is no mandatory type of security under Indonesian law. The general forms of security that are commonly used in Indonesia are mortgage, fiduciary and pledge. In addition, bank or corporate guarantees or P&I LOU are also commonly used.

4.6 Is it standard procedure for the court to order the provision of counter security where an arrest is granted?

Indonesian law does not recognise the concept of counter security. The vessel arrest will be revoked once the civil or

Shipping Law 2024 ICLG.com

criminal case proceedings are resolved. Please note, however, that if a vessel is confiscated due to criminal case proceedings, there will always be a possibility that the vessel is forfeited for the interest of the state by the court.

4.7 How are maritime assets preserved during a period of arrest?

Although the Shipping Law allows for the arrest of the vessel, the necessary implementing regulations have not been enacted. Therefore, many important issues pertaining vessel arrest, including preservation of maritime assets, have not been legislated.

4.8 What is the test for wrongful arrest of a vessel? What remedies are available to a vessel owner who suffers financial or other loss as a result of a wrongful arrest of his vessel?

Indonesian law does not explicitly address the criteria for determining wrongful arrest or the available remedies in case of wrongful arrest. In instances where a vessel is arrested or confiscated as part of criminal proceedings, the Indonesian Criminal Procedure Law allows for the application of a pretrial (praperadilan) review examination at the District Court. This review examines the legality or illegality of the arrest, detention, termination of investigation, or termination of prosecution. In cases of illegal arrest or detention, compensation or rehabilitation may be granted as a consequence. The amount of compensation, as stipulated by Government Regulation No. 92 of 2015, is between from IDR 500,000 to IDR 100 million.

4.9 When is it possible to apply for judicial sale of a ship and what is the procedure for judicial sale?

In the context of vessel mortgage enforcement, judicial sale of a ship can may only commence by obtaining writ of execution (executoriale beslag/penetapan sita eksekus) from the court and during this process, based on strict interpretation of Article 195 (6) of Indonesian Procedural Law, only the debtor or other parties with title over the encumbered ship may challenge the writ of execution application made by the creditor and delay issuance of the writ of execution. If the court agrees to issue a writ of execution, any challenge to it will not be accepted.

During the process of judicial auction sale (following and based on the writ of execution), Article 1210 of the Indonesian Civil Code also provides that the purchaser of a ship under auction may request that the ship be released from any encumbrances (including the previously registered ship mortgage with lower rank) whose value exceeds the purchase price. A purchaser that wishes to make such request, must, within one month of the transfer, arrange that the legal ranking for division of the purchase price be issued by the court, in accordance with the rules stipulated in the legal regulations of Civil procedures (Article 1212 ICC). Once the legal ranking for division is issued by the court and the purchase price is used to pay the outstanding debt of the previous ship owner in the rank order based on the court decision and its respective proportion, the ship will be free of all liens and encumbrances that may have arisen during the previous ownership of the ship. This will be the case even if the purchase price is less than all outstanding debt and, therefore, some debt of the previous ship owner remains unpaid.

As for judicial sale of a ship due to other civil proceedings, the writ of execution will be issued by the court upon issuance of the final and binding judgement. The process afterwards will follow the steps elaborated above.

5 Evidence

5.1 What steps can be taken (and when) to preserve or obtain access to evidence in relation to maritime claims including any available procedures for the preservation of physical evidence, examination of witnesses or pre-action disclosure?

Indonesian law does not specifically regulate regarding the procedures for preserving or accessing evidence in relation to maritime claims. Generally, the procedures to preserve or to obtain access to evidence would be conducted in accordance with the relevant procedural law.

5.2 What are the general disclosure obligations in court proceedings? What are the disclosure obligations of parties to maritime disputes in court proceedings?

Under Indonesian law, the general obligation of disclosure (discovery rule) in court proceedings is not acknowledged. Instead, the parties are obligated to present evidence that substantiates their claims or defences.

5.3 How is the electronic discovery and preservation of evidence dealt with?

The concept of discovery is not recognised in Indonesia, which means there is no specific procedure in place for electronic discovery or the preservation of electronic evidence.

6 Procedure

6.1 Describe the typical procedure and timescale applicable to maritime claims conducted through: i) national courts (including any specialised maritime or commercial courts); ii) arbitration (including specialist arbitral bodies); and iii) mediation / alternative dispute resolution (ADR).

6.1.1 Which national courts deal with maritime claims?

There are no specialised courts dedicated solely to maritime matters in Indonesia. While an Admiralty Court (*Mahkamah Pelayaran*) exists, it is more akin to enquiry process rather than judiciary process. Additionally, its jurisdiction is limited to cases concerning the seamanship professionalism. The Admiralty Court has the authority to assess whether the master and officers of the vessel were at fault in navigating the vessel during an incident or collision. For maritime claims, they are generally treated as civil disputes and should be brought before the District Court or resolved through arbitration.

In the event of a civil dispute that cannot be resolved amicably between the parties, court proceedings can be pursued. These proceedings typically involve multiple stages, starting with the District Courts as the initial trial courts, followed by the High Courts for appeals, and ultimately the Supreme Court, which is the highest judicial institution in Indonesia. The Supreme Court has the authority to review civil cases through cassation and civil review. The overall duration of a civil case, from examination to obtaining a decision from the Supreme Court, typically ranges from one to two years.

Alternatively, if the disputing parties mutually agree to settle their civil dispute through arbitration, the matter will be heard and determined by the arbitration institution specified in their arbitration agreement. The resulting arbitration award will be final and binding, providing a resolution to the dispute outside of the court system.

6.1.2 Which specialist arbitral bodies deal with maritime disputes in your jurisdiction?

Indonesia does not have dedicated arbitration bodies specifically handling maritime disputes.

6.1.3 Which specialist ADR bodies deal with maritime mediation in your jurisdiction?

Indonesian law recognises alternative dispute resolution in the form of consultation, negotiation, mediation, conciliation, or expert assessment. However, it is worth noting that there are no specific organisations or bodies specialised in alternative dispute resolution solely for marine-related disputes in Indonesia.

6.2 What are the principal advantages of using the national courts, arbitral institutions and other ADR bodies in your jurisdiction?

To date, national courts continue to be the primary choice for resolving disputes, including those of a maritime dispute. From a cost perspective, national court proceedings are often considered more economical compared to arbitration. However, one disadvantage is that national court proceedings typically take longer to reach a resolution. On the other hand, arbitration offers significant advantages, such as the ability to appoint arbitrators with specialised knowledge in maritime disputes and the final and binding nature of arbitral awards, resulting in a more expedited process. Nevertheless, arbitration proceedings can only take place if there is a pre-existing arbitration agreement between the parties involved.

6.3 Highlight any notable pros and cons related to your jurisdiction that any potential party should bear in mind.

Indonesia might have been considered an unfriendly jurisdiction in dealing with maritime claims due to the absence of comprehensive maritime laws and regulations, as exemplified by the intricate procedure for vessel arrest in Indonesia. The expansive geography of Indonesia poses challenges in locating vessels and determining the appropriate harbour master with the authority to conduct an arrest. Furthermore, legal proceedings in Indonesia may have a relatively lengthy duration, and the country has not ratified various conventions that are widely accepted and utilised in other nations.

7 Foreign Judgments and Awards

7.1 Summarise the key provisions and applicable procedures affecting the recognition and enforcement of foreign judgments.

Foreign court judgments are generally not recognised and cannot be enforced in Indonesia. In order to enforce a foreign court judgment against Indonesian citizens or assets owned by Indonesian individuals or entities, an order from a domestic court or a non-Indonesian institution empowered by an international treaty is required. While Indonesia has ratified the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards of 1959 (referred to as the "New York Convention"), no such treaty has been established with any foreign country concerning the recognition and enforcement of judgments from foreign courts. As a result, if a foreign court

judgment is to be enforced in Indonesia, it would need to undergo a new legal proceeding before an Indonesian court. Furthermore, any judgment obtained through this process would be subject to multiple levels of appeal within the Indonesian judicial system.

7.2 Summarise the key provisions and applicable procedures affecting the recognition and enforcement of arbitration awards.

Pursuant to Law No. 30 of 1999 on Arbitration and Alternative Dispute Resolution, a foreign arbitration award can be recognised in Indonesia if the following conditions are met:

- (a) The award is issued by an arbitrator or arbitration tribunal in a country that has a bilateral or multilateral treaty with Indonesia on the recognition and enforcement of foreign arbitration awards.
- (b) The award falls within the scope of commercial law in Indonesia.
- (c) The award does not violate public order.
- (d) The award obtains an exequatur order from the chief judge of the Central Jakarta District Court.
- (e) The award obtains an exequatur order from the Supreme Court of the Republic of Indonesia if the arbitration dispute involves the Republic of Indonesia as one of the parties in the arbitration dispute.

Indonesia has ratified the New York Convention, fulfilling requirement (a). The fulfilment of requirements (b) to (e) will be determined based on the evaluation of the chief judge of the Central Jakarta District Court.

Enforcing foreign arbitration awards in Indonesia involves significant formalities and can be a cumbersome process. Generally, there are three stages involved in the enforcement of a foreign arbitration award in Indonesia: (a) registration of the award; (b) obtaining a writ of enforcement; and (c) execution. Stages (a) and (b) are prerequisites for the award to become enforceable in Indonesia, while stage (c) is pursued if the party against whom enforcement is sought does not comply voluntarily with the award.

8 Offshore Wind and Renewable Energy

8.1 What is the attitude of your jurisdiction concerning the maritime aspects of offshore wind or other renewable energy initiatives? For example, does your jurisdiction have any public funding programme for vessels used in offshore wind? Summarise any notable legislative developments.

Indonesia acknowledges the significance of renewable energy and has proactively expedited its development to enhance the national electricity sector. One of the approaches involves harnessing renewable energy sources, such as wind energy, and converting it into electricity for the nation's benefit.

The development of renewable energy sources has been undertaken by either private business entities or by the government, either entirely or partially. However, it is important to note currently, the electricity generated from these sources must be sold to PT Perusahaan Listrik Negara (Persero), the sole electricity supplier in Indonesia based on Power Purchase Agreement (*Perjanjian Jual Beli Tenaga Listrik*).

8.2 Do the cabotage laws of your jurisdiction impact offshore wind farm construction?

Kindly refer to our response provided earlier in relation to question 8.1 above.

Shipping Law 2024 ICLG.com

9 Updates and Developments

9.1 Describe any other issues not considered above that may be worthy of note, together with any current trends or likely future developments that may be of interest.

Greenhouse gas emissions have become a significant concern for the Indonesian government recently, prompting proactive measures to mitigate them across different sectors, including the shipping industry. One of the steps to achieve decarbonised ports, is the adoption of Onshore Power Supply ("OPS") facilities in Indonesian Ports. This initiative aims to enable ships sailing in Indonesian water to utilise OPS to reduce the emission. By utilising OPS, the vessel does not use the power source from the combustion engine on board while docking and performing port activities. Currently, the OPS implementation is available in 21 ports in Indonesia.

Therefore, the ships will be required to make necessary adjustments to their equipment, Standard Operating Procedures and also engage in communication with the Port Business Entity/Badan Usaha Pelabuhan ("BUP") and other related parties regarding the implementation.

The Indonesian government has also begun with several initiatives pertaining carbon capture and storage ("CCS") by the enactment of Presidential Regulation No. 14 of 2024 on Carbon Capture and Storage ("PR 14/2024"). CCS may be undertaken in: (i) an existing oil / gas block that has been developed based on a production sharing contract ("PSC"); or (ii) a specific area that has been designated as a "carbon storage permit area" (Wilayah lzin Penyimpanan Karbon). As most of Indonesian oil/gas block is located offshore, the CCS implementation may affect the vessels operating within the area, although there is still no specific regulation that has been issued to address this matter in further details.

ICLG.com Shipping Law 2024



Emir Nurmansyah, a senior partner at ABNR and member of the firm's management board, is one of the most respected and versatile lawyers in Indonesia today. After some 30 years in legal practice, he is a market leading lawyer for project finance, banking & finance, corporate and M&A, and FDI. He also offers extensive experience and expertise in TMT, restructuring & insolvency, shipping and aviation. Emir is the head of ABNR's project finance department and banking and finance department.

Ali Budiardjo, Nugroho, Reksodiputro
Tel: +62 21 250 5125
Graha CIMB Niaga 24th Floor Email: enurmansvah@abnrlaw.com

Jl. Jend. Sudirman Kav. 58, Jakarta, 12190 LinkedIn: www.linkedin.com/in/emir-nurmansyah-06858a62

Indonesia



Ulyarta Naibaho is an experienced and versatile litigator and joint head of ABNR's award-winning Disputes & ADR Department. Her work in contentious matters extends across all industry sectors and practice areas, with a particular emphasis on commercial, shipping, FDI, mining, cybersecurity/cybercrime, administrative law, hate speech, corporate crime, and environmental disputes. She also frequently represents clients in arbitration proceedings and other alternative dispute resolution forums, including enforcement of court judgments and arbitration awards.

Ali Budiardjo, Nugroho, ReksodiputroTel:+62 21 250 5125Graha CIMB Niaga 24th FloorEmail:unaibaho@abnrlaw.com

Jl. Jend. Sudirman Kav. 58, Jakarta, 12190 Linkedln: www.linkedin.com/in/ulyarta-naibaho-b1465b20

Indonesia

Indonesia



Muhammad Muslim (or Oka, as he is familiarly known) is a senior associate at ABNR. He is lauded as a "Rising Star" for Shipping by *The Legal 500 Asia Pacific*, and has been named one of Indonesia's "top 50 up-and-coming future legal leaders" by prestigious Hong Kong-based legal publication *Asia Business Law Journal (ABLJ)*.

He focuses on maritime and shipping but also works on foreign direct investment, and projects and energy, especially matters that have ties to the maritime industry. Muhammad earned his bachelor's degree from the University of Indonesia and an LL.M. in Maritime Law from the University of Southampton, England.

Ali Budiardjo, Nugroho, ReksodiputroTel:+62 21 250 5125Graha CIMB Niaga 24th FloorEmail:mmuslim@abnrlaw.com

Jl. Jend. Sudirman Kav. 58, Jakarta, 12190 LinkedIn: www.linkedin.com/in/muhammad-muslim-barokallah-

a2b533281



Adithya Lesmana, a member of ABNR's award-winning litigation team, joined ABNR in September 2010 and is now a senior associate. His main areas of practice encompass Shipping and Maritime, Commercial Litigation, Restructuring and Insolvency, Arbitration and Alternative Dispute Resolution (ADR).

Adithya graduated from the University of Indonesia, majoring in international law in 2010. In 2014, he received an Indonesia Endowment Fund for Education scholarship to pursue a master's degree, and in December 2015 graduated with an LL.M. with Merit at Queen Mary University of London, majoring in comparative and international dispute resolution.

Ali Budiardjo, Nugroho, Reksodiputro
Tel: +62 21 250 5125
Graha CIMB Niaga 24th Floor
Email: alesmana@abnrlaw.com

Jl. Jend. Sudirman Kav. 58, Jakarta, 12190 Linkedln: www.linkedin.com/in/adithya-lesmana-0472822b

Indonesia

As Indonesia's longest-established law firm (founded in 1967), Ali Budiardjo, Nugroho, Reksodiputro – Counsellors at Law (ABNR) pioneered the development of international commercial law in the country following the reopening of its economy to foreign investment after a period of isolationism in the early 1960s.

With over 100 lawyers and partners (including two foreign counsel), ABNR is the largest independent, full-service law firm in Indonesia and one of the country's top-three law firms by number of fee earners, giving us the scale needed to simultaneously handle large and complex transnational deals across a range of practice areas.

We also have global reach as the exclusive Lex Mundi (LM) member firm for Indonesia since 1991. LM is the world's leading network of independent law firms, with members in more than 100 countries. ABNR understands

the value of personal touch and we are proud of our reputation for responsiveness. Our lawyers are business savvy and fully understand that – alongside legal expertise and experience – timeliness and value for money are of the utmost importance to our clients.

www.abnrlaw.com



Shipping Law 2024 ICLG.com

International Comparative Legal Guides

The International Comparative Legal Guide (ICLG) series brings key cross-border insights to legal practitioners worldwide, covering 58 practice areas.

Shipping Law 2024 features 33 Q&A jurisdiction chapters covering key issues, including:

- Marine Casualty
- Cargo Claims
- Passenger Claims
- Arrest and Security
- Foreign Judgments and Awards
- Offshore Wind and Renewable Energy
- Updates and Developments
- Evidence and Procedure

