

# Legal Framework of E-Document in Maritime Business Facing New Normal after COVID-19 Pandemic

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**Abstract:** E-Document is a new order in the Maritime Business Industry: one of the advantages is to enable the data verification and to maintain the accuracy of maritime transport documents. Covid-19 Pandemic hitherto open borders have been closed, the on-demand economics that drove much of global consumption seems to be faltering, and nations are turning protectionist, stockpiling, and hoarding essential supplies and goods. The pandemic has threatened the idea of a globalized world and further underlined the delicacy of the systems and industries people have powered life as we have known. The purpose of this research is to design the framework of an integral e-document system in the maritime business. In this study, there will propose an improved acceleration of Indonesian-shipping business towards e-document facing now normal post Covid-10 Pandemic. The method of this study is to analyze key provisions of relevant laws upon the liability and response of interested parties. One of the implications of the electronic document is to cut the edge of the flow of goods or services and people during pandemic and new normal to the entire maritime territory of Indonesia with excellent facilities.

**Keywords:** Maritime Industry, Congestion, New Normal, Post Covid-19 Pandemic.

## Introduction

The Covid-19 pandemic has transformed a globalized world into isolation and further sends a message to the world of the global industrial system's fragility. As pandemics spread around the world, the condition of passengers and crew on cruise ships and the shipping industry has become the main focus. This condition applies mainly to the maritime sector, which has so far been responsible for bringing 90% of world trade. Now, there is still access to import goods needed is evidence of the heroic efforts of tens of thousands of seafarers who work hard to ensure that the world supply chain is still stable (Bussow, 2020).

Meanwhile Cruise and Cargo ships that have a number of passengers and crew have become the Covid-19's incubator. In the case of the ship *The Diamond Princess*, operated by Princess Cruise Lines, departed from Yokohama on February 4 to sail vice versa. On January 20, an 80-year-old passenger from Hong Kong left for Yokohama, and he got off in Hong Kong on January 25. On February 1, six days after leaving the ship, he visited the Hong Kong hospital, where he tested positive for Covid-19. The ship is scheduled to leave Yokohama for the next voyage on February 4, but announced a delay on the same day to allow Japanese authorities to inspect and test passengers and crew who are still aboard. On February 4, authorities announced positive test results for SARS-CoV-2 for ten people on the ship, which led to the cancellation of the voyage, and that the ship entered quarantine (Teoh, 2020)

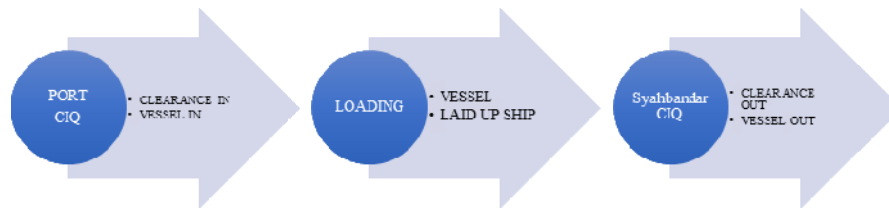
Finally, many countries in Southeast Asia prohibit cruise ships to drop off their passengers because it is feared that passengers and crew who have been infected while on the ship import COVID-19 for the local community.

Until now there are still cruise ships with passengers and crew infected by Covid-19 looking for a safe port. These ships often have difficulty finding countries and ports that are willing to accept it and allow them to unload passengers.

These incidents involving cruise ships as well as cargo ships raise the question of whether the shipping industry can survive or recover from the impact of the pandemic after entering a new normal state.

During Pandemic, Port has a important rule to anticipate the Virus spreading to local environment. The harbourmaster has an authority, to Permits the ship entering the Port's work area to carry out loading and unloading activities and according to loading and unloading, allowing the ship to continue its voyage. Each country has set various conditions for entering its ports and many of them refuse to enter these ships to find a safe port. Under Indonesian Transportation Ministry Regulation Number 64, the Year of 2010 (KM 64/2010) that Harbourmaster has the task of doing Port Clearances. The manifestation of Port Clearance of the incoming and outgoing vessels is the decision of Harbourmaster (Kardadi, 2015). Under Article 219 of the Shipping Law,

Harbourmaster issues a Sailing Approval Letter for ships that have met the eligibility requirements of sail, seafarers, and sea-going vessels (Lasse, 2013).



**Figure 1** In/Out Clearances

When the vessel arrives at the Port, the shipping company or its agent or skipper is obliged to report the arrival of his ship to Harbourmaster, handing over all the papers and certificates of his hand; then take back from the office harbourmaster when the vessel is said to be eligible to sail to the next Port. The factor that most affects the delay time is the administrative process. Considering the examination of documents provided is quite a lot. There are about 32 (thirty-two) documents and certificates to be stored at the Port under the provisions of Shipping Law No. 17 of 2008, PP number 51 of 2002 on Shipping, 1935 Ship Ordinance, and some UN conventions or codes, namely Safe of Life at Sea (SOLAS) Standard Convention on Marine Safety Pollution Prevention (MARPOL) and Load Line Convention 1966. Delay in some major ports, such as TanjungPriok can reach 4-7 days or more (Tentowi, 2016). While in Singapore and Malaysia, clearance much faster because it has been using the information technology system. That is why, even though Indonesia is the largest maritime country, it is still left behind with Malaysia and Singapore, which have much less sea territory.

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Global Competitiveness Report 2010-2011 mentions that the quality of ports in Indonesia is worth 3.6 far below Singapore, which is worth 6.8 and Malaysia 5.6. So a ship must wait for days to queue up to wait. Often the waiting time (dwelling time) is longer than the time of sailing in the domestic sea. This time is one factor why investors are not interested in investing in the field of shipping, so it does not encourage the acceleration of Indonesian-flagged fleet expansion.

This critical issue needs to be addressed in a fundamental way to improve the service facilities at the Port so that ports in Indonesia can serve as transit points of various transportation facilities and guarantee a "quick dispatch" of commercial vessels. Complicated and long delay period happened due to remote administration can be anticipated by the enactment of the use of information technology e-document. E-documents can be used to speed up and simplify the completion of administrative processes, as well as providing certainty to the maritime business world in terms of data and time.

The E-document is a new model the International Maritime Law, in conformity with the International ICC Incoterm Convention 2020, there is a necessity and need in the electronic document practice, so it is now the Indonesian government as the world's largest Maritime country to create a model of the legal framework in the electronic document. It was starting from import-export documents into shipping documents.

The administrative process at the Port is very complicated and lengthy, with complex problems that need to be simpler and more effective and more efficient. (Rogers, 2016) The provisions concerning electronic documents have also been required in the new IMO and SOLAS Conventions.

The novelty in this research is that at the moment, most of the maritime business world is based on websites and digitalizing electronically. The stakeholders in the domestic Port, as well as local vessels, still do not understand the technology thoroughly. We need a user-friendly and comprehensive guide to all parties in maritime traffic, ranging from port operators, skippers, sea scouts, and crew members.

## **Method**

This study uses secondary data as the primary data, and the material chosen is legal in terms of the method of this research approach is normative juridical research. Therefore, this research is the research on library data and secondary data. The study was carried out by researching the implementation of e-document and application of cabotage principle in ports and the relationship among operators with the enforcement of related maritime law. This research is also conducted by a descriptive method of analysis because the discussion is held on the

content of the provisions in the form of secondary data in the form of related research results, scientific journals, legislation, and conventions of International Maritime Law.

## Result and Discussion

### Maritime Business Industry during Covid-19 Pandemic

The Covid-19 pandemic still influences in April of 2020, which has affected lives, businesses, individuals and industries that will change the world. The International Labor Organization estimates that as many as 25 million jobs worldwide will lose their job due to this pandemic. In some countries, governments have regulated "lockouts" to limit the movements of their citizens and control the rapid spread of a pandemic. Lockouts are carried out in all countries in Southeast Asia:

1. Malaysia: The Malaysian government announced national lockdown on March 18 by issuing the Order Control Movement (Limited Movement). The locking period was originally until March 31, but has been extended to April 14. Special exceptions have been made for transportation and some other important service sectors.
2. Indonesia: The Indonesian Government on March 15 formed the National Disaster Management Agency (BNP) and declared a National Disaster-Non-Natural Situation until May 29. The government has asked all citizens to work, study and pray from home.
3. Singapore: On April 3, Singapore announced an action 'breaking the circuit', a policy to lock it up. Previous steps include trade and border control measures: The Maritime and Port Authority of Singapore applies temperature checks at all sea checkpoints, including ferry and cruise terminals, PSA terminals and Jurong Port for incoming travellers. Singapore has also taken additional preventative measures such as banning land leave for personnel at Chinese ports, mandatory temperature checks, keeping track of crew movements and limiting staff trips to China, among others.
4. Thailand: Thai locks operate until 30 April.
5. Philippines: Lockdown of President Rodrigo Duterte was done five weeks after the first case was discovered, and a declaration of Emergency on March 25 gave him extraordinary strength.

Many countries have responded to the pandemic by imposing restrictions or restrictions on movement. Some retailers and manufacturers fail to take their goods and containers because their warehouses are full or closed. Some ports remain open but have reduced labor force, which has worsened cargo congestion. This causes disruption to the supply chain including the movement of important goods and foodstuff. Cargo lying not collected at the port creates congestion and consumes space, reducing capacity for incoming cargo and containers. Some ports have taken precautions to declare 'force majeure' to prevent claims and legal liability. Port closures and port congestion have caused disruptions in the supply chain and imports and exports.

The pandemic has exposed the fragility of the global supply chain and made an acute focus on the lack of important medical components needed in the fight against the pandemic. Wuhan and China in general are important manufacturing bases for manufacturing critical components for companies like Apple. Pandemic locking and steps taken to stop making important component items and supply chain disruptions. Currently manufacturing Pandemic-stricken countries find it difficult to provide adequate medical care due to lack of critical medical equipment such as ventilators, protective masks and other equipment. In the U.S., these deficiencies have many causes, including problems with global supply chains. Before the pandemic, for example, China produced about half of the world's facial masks. When the infection spread throughout China, their exports stopped. Now, when infection spreads globally and transmission in China slows, China sends masks to other countries as part of a good-faith package. The United States is not yet the main recipient.

### The Role of the Indonesian Port in the Implementation of New Normal Business Shipping

Port is important for many international business. It is because some part of their supply chain activities happens at ports. This activities may include pilotage, towage, berthing, stevedoring, wharf handling, and cargo processing. However, recently ports become more than a centre of transferring goods and cargoes. The role of the port has been expanded into logistics and industrial centres thus playing role in global industrial and logistic network (Subhan, 2014).

Recent developments in some industrialized countries, the role, and function of the Port Authority are no longer the same as in the previous era with traditional roles as law enforcement apparatuses that always make administrative, procedural decisions to enforce normative rules, but move towards corporatization of the port authorities (Kartini, 2012).

In Indonesia, the Port Authority or the Port Authority shall be regulated by Law Number 17 the Year 2008 concerning Shipping, Port Operation Unit is a commercially operated port operator with an operating Port

management system, while authority Port is a port operator organized commercially and operated by Port Enterprise (BUP) with a port management system (Ahmad & Rachmawati, 2016).

In this era of Containerization, Globalization, and Liberalization, the Port Operation Unit (POU) and the Port Authority no longer act only in policies and normatively, but also as administrators, coordinators, facilitators, and integrators.

Harbourmaster, as described before, as part of the POU, has an essential role in the Port Clearance Service of the nautical field, the legal stability of ships, navigation, customs, immigration, quarantine as described in Article 211 of the Shipping Law. When the ship arrives at the Port, the shipping company or its agent or skipper is obliged to report the arrival of his vessel to Harbor Master (Puspitawati, 2019). He submits all the letters and certificates of his vessel and then retrieve it from the harbour master's office when the ship is declared eligible to sail to the next Port. Documents were submitted to the office of harbour master's, verified competent officers, and news events while carrying out the voyage to be used as evidence of settlement claim. According to the Minister of Transportation Regulation No. KM 64 of 2010 that coordinate and implement the safety and security of shipping. Hence, harbourmaster inspects the coming ship, includes examination and testing of the physical condition of the shipbuilding, as well as documents of letters and certificates of vessels.

In many countries there are some efforts of reducing the formalities and total cost of transportation by improving port facilities and in establishment of new facilities. The longer inspection of the document the higher cost in ports. In many cases the cost's time spent in the port represent a substantial percentage of total transportation cost of international shipment (Umar, 2018). Since the role of port in the country's economy is so important, the port must be viewed as more than a gateway to international trade. It should be regarded as the heart of a country's economy.

Meanwhile, the impact of a coronavirus pandemic is so extensive that its effects vary across the globe, even long after. Because of this, the new 'normal' has become a booster at the moment, to supply services and consume goods. Before Corona Pandemic, by the end of 2011 had access the digitalization based social and economic exchanges (UNCTAD, 2014). Many ports including in many countries have applied Electronic Data Interchange (EDI) but lack of knowledge of the state of e-commerce development in Indonesia cause hype and confusion both at the public and private sector.

This pandemic lead both parties, public and private to focus on Digitalization especially e-document development in maritime business industry. One common element in all of this is digitalization the use of digital technology to change business models and provide new revenue and opportunities to generate value, and delivery is at the forefront of this movement. At present, in the fight with Covid-19, this solution has also proven to be an effective weapon for improving health and safety. Automatic logistics processing systems, such as electronic payment gateways, the deployment of digital labor, and other measures that are already operating at our ports, have reduced the need for human congestion and physical interactions that now an important factor in the war against a pandemic.

The e-Document is a secure electronic platform that can be accessed by private and public stakeholders in the port community. E-document uses a single data entry platform that allows submission of shipping manifests and other important documents to one site, which automatically distributes them to the main parties in the logistics chain (Goldby, 2013).

E-Document at Port namely Port Digital System also manages manifest shipments that are less than cargo, as well as authorizations from Customs, shipping agents and shippers, container terminals (terminal authorization), and customs brokers/shippers (identification of truck drivers). Instead of checking the physical documents needed, as was the case before the electronic system, terminal gate staff now check their electronic equivalents, which are made through computerized systems, before allowing cargo to leave the port. (Cleaner, 2020)

After payment is made to the parties concerned and all releases are enforced, then makes an exit authorization notification. This is sent to various stakeholders such as truck drivers, customs brokers/shippers and terminals to notify each cargo as authorized for collection (Murray, 2016). In regard to exports, e document streamlines the integration of processes with Customs and Terminals and uses best-in-class smart security strategies to collect, store and transmit industrial data, while protecting it from security breaches of various types and origins (Murray, 2016).

Port digital System give an alternative to all industry stakeholders to share information electronically, thereby providing exceptional benefits, which include increased security, increased productivity, reduced transportation costs, and now the benefits of avoiding travel, physical contact, and document handling during the corona virus crisis.

Port Digital system can act quickly in response to the corona virus by implementing the following steps (The Cleaner, 2020):

1. Appointment system for all customers, including citizens who rely on incoming cargo less than containers, such as barrels. The appointment system avoids customer congestion, so that social distance can be observed while citizens collect their valuable personal belongings;
2. Electronic payments, if possible;

3. Submitting vessel documents electronically.

These and other steps that have been implemented by the port terminal ensure that shipping business can continue to receive and send cargo which is very important for human needs. In a recent BBC report, Demrovsky, chief executive of the International said that during the locking of the coronavirus, activities such as watching groceries shopping films, company meetings and e-learning, among other things, were largely moved online. Noting that this might not be a short-term trend, he added: "Businesses are not being creative now about how they can be useful in a Post-Covid-19 new economy will struggle" (The Cleaner, 2020). The shipping industry shows ways to meet the challenges of the current crisis, as well as for the coming Post-Covid era; embrace change, promote innovation, and move forward as a team through a shared digital platform.

**Electronic Document in Maritime Business.**

Electronic document (e-document) is a development in maritime as the development of the era of globalization of trade. In legal terminology, there are various polemics in terms of; lack of evidence, especially on the authenticity of documents, signature endorsement of risk and responsibilities uncertainty, difficult to apply to developing countries, non-diversity of implementation in member countries (Golby, 2013). It has become the debating of law scholars, and there are differences in the outcome of court decisions. E-Document in this study describes as electronic record, electronic connection, and innovative business, exchange of intangible, such as information and data and transformation of key business process through the uses of ICT and internet technology (Subhan, 2014). In this thesis however, due to constrains of resources (time and cost).

Electronic data is not a new thing in the maritime business world, it is recognized in the International Chambers of Commerce 1990 with the preparation of electric bill of lading. Under this rule, the right to supervise the goods and transfer them to others requires the possession of a private key. The private key will be delivered to the shipper by the carrier after the goods are received (Suyono, 2017).

In 1996, UNCITRAL developed an electronic law legal system (model law for electronic commerce) containing two essential articles in transport document procurement. The law model primarily bases the rules of the CMI-Rules for electronics bills of lading.

In early 2010, Bolero developed a system called Bolero, in contrast to CMI-Rules, Bolero using Third-Party as an intermediary party called Trusted Third Party (TTP). Bolero grew in the payment system held by the Society for Worldwide Interbank Financial Telecommunications (SWIFT) (David, 2010).

Since Incoterm 2000, virtually every regime of goods delivery that initially used paper was replaced with electronic documents. The same situation was reinforced by Incoterm 2010 and the latest 2020. All of these Incoterms point to circumstances in which sellers and buyers have agreed to connect electronically (Wilson, 2010). When approved, ordinary paper documents may be replaced by electronic data communications called EDI (Electronic Data Interchange).

However, these electronic communications and documents are only applied to the payment of import duty taxes, import taxes, the filling of the Goods Import Declaration Form, after the goods are discharged from the Port, Customs and Excise will post the audit to match the types of goods and documents (Baughen, 2009).

In addition to payments and taxes, in the maritime business world, Electronic Instruments are also a must in terms of navigation following the recommendations of the International Maritime Organization and SOLAS Convention. The Electronic Instrument in question includes (Baatz, 2011).

1. Global Positioning System (GPS) is a ship position detection system with satellite technology. The position search of a target is watered when the ship is in danger.
2. Radar Survey lance, a plane that not only measures the distance of a child but also serves to:
  - a. Keep on eye to the sailing water vessels that are within E-Document is a new order in the maritime industry;
  - b. Monitor the ship that has been docked
  - c. Identify the ships that go aboard

One of its advantages is that it accelerates data verification and maintains the accuracy of maritime transportation documents. One of the implications of the electronic document is to facilitate the flow of goods or services and people to the entire Indonesian maritime area broadly with maximum function. Indonesia is still left behind from Malaysia and Singapore not only in terms of the physical ship but also in technology and managerial. Indonesia is the largest maritime country but still lags far behind from Malaysia and Singapore, which have far fewer maritime territories (Rizaldy, 2014). This research aims at designing an integrated legal framework for e-document systems in the shipping business. The resulting model is the e-document legal framework model, which will involve some related parties, namely: Ports, Local Government, Legislature, and Higher Education, in the form of a blueprint (Subhan, 2014). The specific target of this research is to be aware of policies, regional studies, and international law reach the radius of the radar. In addition, there are also electronic communication media under MARPOL CONVENTION, namely (Moens&Gillies, 2007):

1. Vessel Traffic Service, a multi-purpose radar-based installation for a variety of navigational instrument systems, functions as follows:
  - a. Improve the safety of navigation and avoid the risk of traffic accidents around the port
  - b. Supporting port enforcement efforts
  - c. Controlling the flow of traffic
2. The ship reporting system is a radio-based communication system and it is functioned primarily to provide up-to-date information about the movement of ships and broadcast the ship's position in a state of danger.
3. Long Range Identification and Tracking of Ships is an aircraft communication that serves to identify and supervise vessels coming from the high seas across tau funds entering exclusive economic zones, auxiliary zones, and territorial sea for international shipping as well as archipelagic waters.

This holds especially true for the maritime sector, which has the tremendous responsibility of carrying 90% of world trade on its shoulders. The fact that we, as consumers, are still able to access different goods which is a testament to the heroic efforts of tens of thousands of seafarers toiling away to ensure that the world's supply chains decrease.

### **Keeping The Existence of Maritime Business in a New Normal**

As things stand, the pandemic has the potential to make far-reaching changes in how humanity lives, works, and consumes goods and services. The shock on global markets and world trade may very well to see cargo volumes contract. The lingering fear of infection may not see people venture out to travel for at least a year. As how long the medicine experts estimate it will take for a vaccine to be developed.

In Maritime business, they usually work in shifts that range from 1 to 6 months, but the risk of the Coronavirus has made crew changeovers more difficult, forcing them to remain on board their vessels indefinitely. This situation is very contradictory with the Human Trafficking Protocol that has regulated every ship crew must discharge from the vessel every 3 months (Guilfoyle, 2009). It can be concluded if they work shifts more than 3 months it against the Human Trafficking Convention. Furthermore, quarantine measures have also been instituted, which seem to vary from country to country. Ships have to stay in Port for days on end, adding more pressure to a logistics chain that has been stretched thin

A breakdown due to lack of regular repairs could maroon a ship at sea, depriving regions of lifesaving essentials and medical equipment. The smooth functioning of the maritime industry has never been as critical as it is today. It is a fact that great crises often bring out the best in human ingenuity, innovation and collaboration (Bugden& Lamont-Black, 2013). Hence, ship owners and operators are pooling resources to get relief to their crews, reduce their workload and try every means necessary to streamline processes. One example is remote servicing and maintenance. Before the pandemic hit, the majority of maintenance and service tasks used to be carried out by field service engineers at ports. Now, more of these operations are being done remotely, through digital tools.

This would have been a difficult claim to make as little as five years ago. Back then, most digital solutions were being designed for vessels with the expectation that they'd be offline most of the time. It has become routine for ships to have both primary and backup satellite communication systems, which means that they are almost always connected. This opens up tremendous possibilities with vessels having access to virtually unlimited onshore computational power.

With digital solutions, we can bring stakeholders, including the vessel crew, the onshore crew, Port, and regulatory authorities into one information platform. This allows them to seamlessly carry on operations without having to end up exchanging a hundred or more emails (Goldby, 2013). Tasks such as scheduling maintenance would happen more quickly and efficiently, with all the information being accessible on one platform by all parties concerned.

The use of machine learning and huge data can also help ports to plan the movements of goods from ships to shore to its final destination. Containerships today spend, on average, 6% of their time waiting at anchor, reflecting suboptimal speed profiles. As a result, the best route and rate are calculated, reducing the amount of burnt fuel and the waiting time. The same concept could then be expanded inland to ensure that cargo trucks and other vehicles are present to collect cargo only when needed and not a moment sooner or later. Such efficiencies have become critical in today's context.

In this new normal, the maritime sector will have to gear up to different ways of doing business and further pare costs. Remote guidance, which will allow for more efficient crewing, may become the norm, to fleets become leaner. It is a guarantee of stability that is much needed in these uncertain times.

### **Conclusion**

Pandemic Covid-19 has made significant changes in all lines of the business world, including maritime business. The shipping business, due to the decreased volume of cargo contracts in the shipping business, there is the disruption of the supply of goods and services in the global market and world trade. The New Normal

change causes the maritime sector to prepare for changes in the way they do business and reduce costs. Toward this cutting edge, shipping is more efficient and streamlined in terms of law and ships. E-Document is a solution for global reach and guarantees the stability of the supply of goods and services needed in this uncertain situation due to this pandemic.

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