



# RESPONSIBILITIES AND AUTHORITY OF THE PIONEER OFFICERS AND THE PORT AUTHORITY MASTER'S OFFICE IN ENSURING SHIPPING SAFETY AND SECURITY BASED ON LAW NUMBER 17 OF 2008 CONCERNING SHIPPING IN BELAWAN PORT

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## Abstract

*KSOP has considerable authority in carrying out the function of shipping safety and security including supervising ship pilotage and towing activities in port waters and shipping lanes as stated in Article 207 & 208 paragraph 1, Law 17 of 2008. In carrying out its duties, namely providing instructions and information needed by the Captain or ship leader and assisting in the movement of the ship from the outer threshold/anchorage area to move in/out of Belawan Port, the Pilot Officer is guided by the laws and regulations governing shipping and KSOP as a pilotage supervisor. How is the implementation of the responsibilities and authorities of the Pilot Officer and KSOP in ensuring shipping safety and security at Belawan Port? What are the sanctions given by the Main KSOP Belawan to Pilot Officers who are negligent in carrying out their duties resulting in ship accidents? The research method used in this study is empirical legal research. The research was conducted by examining primary and secondary data in the form of interviews, direct observations in the field, library materials, primary legal materials, secondary and tertiary legal materials. Based on all the data obtained, it is then processed systematically and qualitatively to produce descriptive analytical writing. In this case, the researcher conducted an empirical legal study to see the responsibility and authority of the Pilot Officer and KSOP in ensuring the safety and security of shipping at Belawan Port which is implemented through the Shipping Law & Derivative Regulations governing Ship Pilotage and Delay, where in its implementation the sanctions given by the Pilotage Supervisor (KSOP) do they have a deterrent effect on the professionalism of the Pilot Officer in carrying out their duties.*

**Keywords :** *KSOP, Pilot Officer, Responsibility, Authority, Safety & Security of Shipping, Shipping Law*

## INTRODUCTION

The Harbormaster and Port Authority Office (KSOP) is a Technical Implementation Unit within the Ministry of Transportation which is under and responsible to the Director General of Sea Transportation. According to Law 17 of 2008 article 207 paragraph 3, the Head of KSOP is a harbormaster appointed by the Minister after meeting the competency requirements in the field of shipping safety and security and harbormastership. KSOP has the task of coordinating government activities in ports, supervision, and law enforcement in the field of shipping safety and security, regulation, control and supervision of port activities at commercially operated ports, control and supervision of sea traffic and transportation activities, and certification of ship seaworthiness in accordance with the Regulation of the Minister of Transportation of the Republic of Indonesia No. PM 15 of 2023 concerning the Organization and Work Procedures of the Main Harbormaster and Port Authority Office in article 2. One of the functions of KSOP is to regulate ship traffic in and out of port waters and shipping lanes through ship guidance and towing as a Guidance Supervisor. In order to maintain the safety of the ship and its cargo when the ship enters the shipping lane towards the harbor basin to anchor/moor at the pier, the captain needs an advisor, namely a pilot officer, a pilot officer is an experienced sailing expert and has graduated from a 1 (one) year pilotage school held by the Directorate General of Sea Transportation.<sup>1</sup>

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The obligation of the operator and captain of the ship upon arrival of the ship at the Belawan Port anchorage area (Anchorage Area) outer threshold, namely the owner/operator of the ship or captain must provide the ship's arrival plan to the Belawan Main KSOP with the Captain's Radio Telegram (Master Cable) via the Belawan Coastal Radio Station/VTS on channels 68 & 71 with a copy to the shipping company or general agent within a maximum of 48 (forty eight) hours before the ship arrives at the port. The data reported are as follows; Ship name/Call sign, ETA on the outer threshold, National Flag, Ship length and draft, Port of origin (Last port), Name of local agent, and other necessary information. Then the Belawan VTS instructs the ship to standby on VHF channel 12, waiting for further instructions from the Belawan Scout Station.<sup>2</sup>

The pilotage task is essentially a government task (regulator), namely carried out by the KSOP/UPP (Port Management Unit) according to the wording of Article 29 paragraph 1 of the Regulation of the Minister of Transportation Number PM 57 of 2015 concerning Ship Pilotage and Towing which states that ship pilotage and towing services as referred to in Article 28 are carried out by the Port Authority, Harbor Master and Port Authority, or Port Management Unit, which can then be delegated to the BUP (Port Business Entity) due to government limitations in terms of facilities, infrastructure and Pilot/Pilot Officer HR according to Article 30 of the Regulation of the Minister of Transportation Number PM 57 of 2015 concerning Ship Pilotage and Towing, namely in the case that the Port Authority, Harbor Master and Port Authority, or Port Management Unit as referred to in Article 29 paragraph (1) has not provided ship pilotage and towing services in mandatory pilotage waters and extraordinary pilotage waters located in shipping lanes and port waters, the implementation of ship pilotage and towing services can be delegated to the port business entity. that meets the requirements. Guidance at Belawan Port is carried out by the recipient of the delegation of ship guidance and towing in the waters of Belawan Port, namely PT. Pelabuhan Indonesia (Persero) in accordance with the Decree of the Director General of Sea Transportation Number: KP-DJPL 616 of 2023 concerning the Granting of Delegation to the Port Business Entity PT. Pelabuhan Indonesia (Persero) to Carry Out Ship Guidance and Towing Services in Class I Mandatory Pilotage Waters in the Waters of Belawan Port, North Sumatra Province.

According to article 46 PM 57 of 2015, the task of the pilotage supervisor (KSOP) is to supervise the implementation of technical safety of pilotage in waters where pilotage is carried out, namely the Harbor Master/KSOP serves as the superintendent (supervisor) of the pilotage service; "Guidance of the ship does not reduce the authority and responsibility of the Captain" according to article 199 paragraph 3 of Law 17 of 2008 and "The pilot in carrying out pilotage services as referred to in paragraph (1), the final decision remains in the hands of the Captain or ship leader" reads article 24 paragraph 2 PM 57 of 2015, namely the pilot who carries out pilotage duties is positioned under the command of the ship's captain, so that responsibility remains with the captain and frees the pilot from responsibility based on the pilot's duties as the captain's advisor according to article 24 paragraph 1 PM 57 of 2015; The superintendent has the authority to impose penalties on scout officers who do not carry out their duties in accordance with Articles 51 to 54 of PM 57 of 2015.

In the case of the Pilot Officer who carries out the pilotage duties under the command of the ship's captain, so that the responsibility remains with the captain, which is also in accordance with the Statement in Article 24 paragraph 2 of the Regulation of the Minister of Transportation Number PM 57 of 2015 concerning Ship Pilotage and Towing: The Pilot in carrying out pilotage services as referred to in paragraph (1), the final decision remains in the hands of the Captain or ship leader, meaning that when an accident occurs caused by the Pilot Officer by threatening the safety and security of the voyage, it becomes the responsibility of the ship's Captain without involving the Pilot Officer and there are also no provisions for the imposition of criminal sanctions. The Pilot Officer is only subject to administrative



sanctions in accordance with Article 54 of the Regulation of the Minister of Transportation Number PM 57 of 2015 concerning Ship Pilotage and Towing in the form of a written warning, not being allowed to pilot for a certain period of time according to the level of error and revocation of the pilot certificate. This needs to be a matter of concern to be regulated in the regulations regarding criminal sanctions against Pilot Officers, that Pilot Officers have the same risk or burden as the captain when a ship accident occurs in the harbor shipping lane which causes material or immaterial losses as well as loss of life so that Pilot Officers work more professionally in carrying out their duties.

In 2023, there was 1 (one) recorded ship accident in the Belawan Port shipping lane caused by the Pilot Officer not being onboard the ship to carry out his duties, namely on March 14, 2023, KMP. Teluk Sinabang experienced an emergency situation running aground at a position approaching bouy 5 of the Belawan Port entrance channel at around 20.00 LT, in the ship's report made by the captain of the KMP. Teluk Sinabang ship, the ship moved into the Belawan channel passing Bouy 2 without being guided and the pilot asked to board bouy 9. When the ship was at bouy 5, the KMP. Teluk Sinabang ship was asked by the MSC Agata ship to move very slowly because the MSC Agata ship wanted to maneuver out. Then the ship exited the channel to the west near bouy 5 approaching the shoal and the ship could not move (ran aground), the captain tried to maneuver to get out but the ship still did not move. At 21.30 LT the pilot went up to the ship with the Pilot Boat, the ship was already aground and the Tugboat tried to evacuate but the ship still could not be released and the tross rope broke to pull the ship. Then the Tugboat and Pilot Boat returned to base waiting for the next high tide or tomorrow morning. At 04.30 LT the Tugboat tried again to pull the KMP. Teluk Sinabang with manual sounding of a high water tide of 1.7 meters at 05.00 to 07.00 LT but failed. From the results of the examination by the Belawan Main KSOP regarding the preliminary examination of the KMP ship accident. Teluk Sinabang, the conclusion was obtained based on the Head of the Patrol Guard and Investigation Service Note Number 128 / ND / SYB.BLW-2023 dated March 27, 2023:

- a. The captain was not familiar with the shipping lanes of Belawan port.
- b. The captain did not comply with traffic regulations.
- c. The captain sailed into the Belawan port shipping lane without being accompanied by a pilot officer.
- d. The sea map on board the ship was corrected to BPI No. 10 of 2005 and is only a photocopy.

From the above legal incident, the Main KSOP Belawan as the Guiding Supervisor imposed a sanction on Pandu 06 on behalf of Tagsu Tambunan in the form of a temporary release from duties for 1 (one) month for the person concerned according to the letter issued Number AL.325/1/1/SYB.BLW-2023 dated May 9, 2023.

Then the second and third incidents caused by the Pilot Officer not onboard to carry out his duties due to the dense traffic of ship movements at the same time but no accident occurred, namely in the waters of SPM (Single Point Mooring) Pertamina Belawan Port recorded by the pilotage supervisor on February 12 and 19, 2023 when the MT tanker. Tanker Victory docked at SPM 35,000 DWT Belawan Port was discovered when the pilotage supervisor conducted an inspection of the ship as stated in the minutes number BA-SYB.Blw 8 of 2023 dated February 27, 2023. From this incident, the pilotage supervisor imposed sanctions on Pandu 19 and Pandu 12 on behalf of Zulkarnen and Riden Manalu in the form of a written warning to the person concerned according to the letter issued number AL.326/1/3/SYB.BLW-2023 dated March 15, 2023. From the description above, the author draws the following problem formulations: How is the Implementation of the Responsibilities and Authorities of Pilot Officers and KSOP in ensuring the safety and security of shipping at Belawan Port?, What sanctions are given by the Main KSOP Belawan to Pilot Officers who are negligent in carrying out their duties, resulting in ship accidents?

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## **RESEARCH METHODS**

The approach method used in this study is the empirical legal method. Empirical legal research is a legal research on the enforcement or implementation of normative legal provisions directly in every specific legal event that occurs in society.<sup>3</sup> Satjipto Raharjo said that "to be able to understand traffic law, you can't just read traffic laws, but you also have to go down and observe directly what happens on the highway".<sup>4</sup> In addition to reading and understanding the rules on shipping, especially regarding ship pilotage and delays, researchers also carried out direct observations that occurred at the port regarding the duties of the pilot officer and the Main KSOP Belawan.

The data sources in this study are primary data and secondary data. The technique of collecting legal materials in this study was carried out by means of observation, interviews with scout officers and scout supervisors with a total of 6 (six) respondents consisting of 3 scout officers and 3 scout supervisors (Main KSOP Belawan). Interviews are primary data sources carried out on September 9, 11 and 30, 2024 in Belawan, as well as literature studies (Library Research) in the form of legislation, literature in the field of legal science and identification of the necessary data. The tools in data collection used in this study are document studies (Documentary Research) and interview guidelines.<sup>5</sup>

## **RESULTS AND DISCUSSION**

### **1. Implementation of the Responsibilities and Authorities of Pilot Officers and KSOP in Ensuring Shipping Safety and Security at Belawan Port**

In carrying out its functions and duties, the Harbor Master/KSOP has the authority as regulated in Article 209 of Law 17 of 2008 concerning Shipping, including:

- a. Coordinate all government activities at the port;
- b. Check and store letters, documents and ship records;
- c. Issuing approval for ship activities in the port;
- d. Conducting ship inspections;
- e. Issuing Sailing Approval Letter;
- f. Conducting ship accident inspections;
- g. Detaining a ship by court order; and
- h. Carry out crew certificates.

In carrying out the function of shipping safety and security, the Harbor Master/KSOP has duties in accordance with Article 208 paragraph 1 of Law 17 of 2008 concerning Shipping, which include: Supervising orderly ship traffic in port waters and shipping lanes, Supervising ship towing activities and supervising pilotage. The Harbor Master/KSOP in supervising ship pilotage and towing acts as a pilotage supervisor. The pilotage supervisor at Belawan Port is the Head of the Main KSOP Belawan as stated in the fourth point in the Decree of the Director General of Sea Transportation Number: KP-DJPL 616 of 2023 concerning the Granting of Delegation to the Port Business Entity PT. Pelabuhan Indonesia (Persero) to Carry Out Ship Pilotage and Towing Services in Class I Mandatory Pilotage Waters in the Waters of Belawan Port, North Sumatra Province, which also acts as a port regulator. KSOP Utama Belawan in carrying out the duties and functions of pilotage and towing of ships as a pilotage supervisor is carried out in the Patrol and Enforcement Section under the Supervision and Enforcement Sector as stated in article 12 PM 15 of 2023 concerning the Organization and Work Procedures of the Harbor Master and Main Port Authority Office. In carrying out its duties and functions, the pilotage supervisor is assisted by the pilotage supervisor executor, namely staff under the Patrol and Enforcement Section of KSOP Utama Belawan. The duties of the pilotage supervisor in carrying out the function of shipping



safety and security, namely according to article 46 PM 57 of 2015 concerning Ship Pilotage and Towing, are:

- a. Supervise the technical implementation of pilotage safety in the waters where pilotage is carried out.
- b. Reporting to the Director General regarding pilotage constraints and obstacles along with suggestions for solutions related to navigation safety and security.
- c. Conducting investigations into complaints regarding pilotage services related to navigation safety and security.
- d. Issue a certificate without guidance (pilot exemption) as referred to and a certificate without delay to the Captain.
- e. Receive and follow up on reports from pilot officers regarding captains who do not comply with applicable laws and regulations and/or instructions from pilot officers.
- f. Receive and follow up on reports from pilot officers regarding changes in depth, Navigation Aids, obstacles, obstructions, pollution and contamination in the waters.
- g. Establish systems and procedures for local ship pilotage and towing services.
- h. Issue a letter of approval for tugboat maneuvers.

For the sake of safety and security of sailing, as well as smooth traffic in waters and ports, the Government has designated certain waters as mandatory pilotage waters and extraordinary pilotage waters. Every ship sailing in mandatory pilotage waters and extraordinary pilotage waters uses pilotage services carried out by Pilot Officers as regulated in Article 198 paragraphs 1&2 of Law 17 of 2008 concerning Shipping. The Pilot Officers on duty at Belawan Port are Pilot Officers of PT. Pelabuhan Indonesia (Persero). Belawan Port is a Class I mandatory pilotage water based on the Decree of the Minister of Transportation of the Republic of Indonesia Number KM 170 of 2022 concerning the Determination of Class I Mandatory Pilotage Waters in the Waters of Belawan Port, North Sumatra Province.

The number of Pilot Officers registered in the Sipandu application (Ship Pilotage and Towing Information System) according to the SKPPP issued by the Belawan Main KSOP is 23 Pilot Officer HR personnel consisting of 2 people at the managerial level and the rest are functional Pilot Officer personnel, namely: 6

No.	Name of the Scout Officer Caption	Certificate of Expertise	Certificate	Call
	Sailor	Guide	Sign	/No. SKPPP
1.	The Incitement of Manurung	ANT-II Guide Level II	P-02	Manager
2.	Joko Lamani Putra	ANTI	Guide Level I P-03	Ass.Mnj
3.	Munjali AL325/3/6/KSOP.BLW-24	ANTI	Guide Level I P-25	
4.	Sudi Santoso	ANT-II Guide Level I	P-14	AL325/2/7/KSOP.BLW-24
5.	Abdul Kohar Daulay AL325/3/1/KSOP.BLW-24	ANTI	Guide Level I P-07	
6.	English	ANT-II Guide Level I	P-10	AL325/2/11/KSOP.BLW-24
7.	The Fall of Sinaga AL325/2/15/KSOP.BLW-24	ANTI	Guide Level I P-17	
8.	English	ANTI	Guide Level I P-08	AL325/2/20/KSOP.BLW-24
9.	English: Endarto Setiyawan AL325/2/22/KSOP.BLW-24	ANT-II Guide Level I	P-04	
10.	Yenki Dewizra	ANT-II Guide Level I	P-21	AL325/2/16/KSOP.BLW-24
11.	Aswan Ganda Sigalingging AL325/3/5/KSOP.BLW-24	ANTI	Guide Level I P-22	

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12.	Riden Manalu Retirement	ANTI	Guide Level I	P-12	TMT	September
13.	Zulkarnain AL325/2/14/KSOP.BLW-24	ANTI	Guide Level I	P-19		
14.	Herto Situmorang	ANT-II	Guide Level I	P-15		AL325/2/17/KSOP.BLW-24
15.	Harmoko's fingerprints AL325/2/20/KSOP.BLW-24	ANTI	Guide Level I	P-11		
16.	Tagsu Tambunan	ANTI	Guide Level I	P-06		Died in October AL325/3/3/KSOP.BLW-24
17.	Chandra Kardana	ANT-II	Guide Level I	P-20		AL325/2/8/KSOP.BLW-24
18.	The Great Hall of the Hutagalung AL325/3/8/KSOP.BLW-24	ANTI	Guide Level I	P-23		
19.	Muhammad Azmi AL325/2/12/KSOP.BLW-24	ANTI	Guide Level I	P-16		
20.	Khairuddin Damanik AL325/2/13/KSOP.BLW-24	ANTI	Guide Level I	P-18		
21.	Joni Fahamsah AL325/2/19/KSOP.BLW-24	ANTI	Guide Level I	P-09		
22.	English	ANTI	Guide Level I	P-05		AL325/3/4/KSOP.BLW-24
23.	English AL325/3/7/KSOP.BLW-24	ANTI	Guide Level I	P-24		

Pilot officers on duty at Belawan Port are required to carry out familiarization in the waters of Belawan Port to obtain assignments from pilotage supervisors, namely SKPPP (Certificate of Appointment of Pilotage Officers) as mandated in Article 11 paragraph 2 and Article 22 of PM 57 of 2015 concerning Pilotage and Ship Delay. The process of obtaining SKPPP for Pilotage Officers is carried out by carrying out a Pilotage Officer assessment which includes stages of written technical exams, interviews and familiarization of the route tested by the Pilotage Supervisor of the Main KSOP Belawan accompanied by administrative requirements that must be met by Pilotage Officers.<sup>7</sup>

In carrying out pilotage duties, the Pilot Officer has the following obligations as stated in Article 27 of PM 57 of 2015 concerning Ship Pilotage and Towing:

- a. Assist the captain or leader of the ship to take appropriate action to ensure the safety and security of sailing.
- b. Provide all necessary instructions to the Master for safe sailing and for orderly flow of ship traffic.
- c. Fulfilling the Master's request to take over command of the ship's movements.
- d. The pilot must coordinate with other guided and non-guided vessels, as well as with the control tower/pilot station/Vessel Traffic Service (VTS) for order, smoothness and safety of ship traffic.
- e. As soon as possible, report any accidents occurring on or off the ship to the pilot supervisor and actively take part in handling it within the limits of his/her authority.
- f. Knowing the depth of the shipping lane within the pilot waters.
- g. Receive and act on reports from other scouts regarding any accidents or hazards that occur.
- h. Report to the pilotage supervisor on changes in the depth of the shipping lane in the pilotage waters obtained from sounding results, as well as the placement of fishing nets or other channel obstructions, changes in position, light and/or period of beacons/buoys.



- i. Participate in observing the possibility of waste and/or oil being discharged from ships, which may result in pollution and contamination of the shipping lane environment.
- j. Reporting the possibility of anchors, chains and ship ropes in the shipping lane that could endanger other shipping.
- k. Wearing the designated guide uniform and attributes and equipped with safety equipment and communication equipment that meets the requirements.
- l. Helping the Master to comply with and understand applicable local regulations, as well as changes.
- m. Report to the pilot supervisor if the captain deviates from the instructions given or makes it difficult for the pilot to carry out his duties.
- n. Providing guidance to prospective scouts and fellow scouts regarding introduction to local shipping lanes.
- o. Conduct observations of the ship's front and rear draft, the ship's stability conditions each time before navigating, and
- p. Report to the piloting supervisor if the captain cannot show proof of the ship's insurance coverage.

The challenge of pilotage in Belawan port is where the characteristics of Belawan port are different from other ports, Belawan port has the characteristics of limited draft and dimensions of ships entering and exiting due to sedimentation/shallowing of narrow channels and channels especially around Bouy no. 1 to Bouy no. 4 around 82 meters wide and the current strength is quite strong not parallel to the channel, namely tilting 30° when the tide is high and the tide is so fast causing ships with a draft of 8 meters and above to move in and out only when the tide is high, ships with a length of more than 200 meters have difficulty turning to maneuver in the port pool starting from Bouy no. 11 to pier 110 at the new end of Belawan port, especially when the tide is low, there is a risk of running aground.<sup>8</sup> This is a problem because ships with large dimensions and deep drafts are not free to enter and exit the port so that sometimes they need to wait for the tide and become a potential long stay at Belawan port. So it is necessary to regulate the implementation of the intended pilotage and supervision from the pilotage supervisor as stated in the Sispro for pilotage and towing services at Belawan Port regarding the implementation of pilotage for ships with deep drafts and ships entering shipping lanes with UKC (under keel clearance) of less than 10% of the draft according to point 6 concerning Prohibitions in the Decree of the Minister of Transportation of the Republic of Indonesia Number KP 470 of 2017 concerning Determination of Shipping Lanes, Route Systems, Traffic Procedures and Anchoring Areas According to Their Interests in the Shipping Lane Entering Belawan Port.

The risk of pilotage in the Belawan port shipping lane has the potential to cause ships to run aground. According to Datep Purwa Saputra, running aground is an emergency situation caused by the ship running aground on the bottom of the waters which is preceded by signs of heavy propeller rotation, smoke in the chimney suddenly turning black, the ship's body vibrating and the ship's speed changing then stopping suddenly.<sup>9</sup> When the ship runs aground and does not move, the position of the ship will depend greatly on the surface of the seabed or river and the situation inside the ship will of course also depend on the condition of the ship. When a ship runs aground, there is a possibility that the ship will leak and cause pollution or the danger of sinking, if the water that enters the ship cannot be overcome, while the danger of fire can certainly occur if fuel or oil is conducted with a damaged electrical network causing an undetected flame which causes a fire.<sup>10</sup> For the safety of human life, goods and ships, dredging services for the edge of the dock and port pools need to be routine and continuous.<sup>11</sup>

The occurrence of a ship accident in the Belawan Port shipping lane caused by the Pilot Officer not being onboard the ship on March 14, 2023 against the KMP ship. Teluk Sinabang which caused the ship to run aground, illustrates the unprofessionalism of the Pilot Officer in carrying out his duties as evidenced by the results of the examination by the Belawan Main KSOP regarding the preliminary

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examination of the ship accident against the KMP ship. Teluk Sinabang entered the mandatory pilotage waters of Belawan Port without being guided by the Pilot Officer. The Pilot Officer should have boarded the KMP ship. Sinabang Bay at the PBG (Pilot Boarding Ground) point, the mandatory pilotage area of Belawan Port according to Article 10 of PM 57 of 2015 concerning Ship Pilotage and Towing and attachment KM 170 of 2022 concerning the Determination of Class I Mandatory Pilotage Waters in the Waters of Belawan Port, North Sumatra Province, namely the PBG coordinate point of Belawan Port is at coordinates 03 ° 54'13.00 "LU / 098 ° 45'00.00" BT around the location of bouy 2, the entrance channel of Belawan Port. Then based on Article 37 paragraph 1 point a and paragraph 2 point a of PM 57 of 2015 concerning Ship Pilotage and Towing, it explains that Port Business Entities that carry out ship pilotage and towing services are required to provide reasonable and appropriate pilotage services according to the service system and procedures determined by the local pilotage supervisor. Guidance must be carried out by providing services reasonably in the sense that the pilotage is carried out physically and in real terms, namely the Pilot Officer carries out duties on board the ship and gets on and off at the PBG point. Similarly, the incident of the MT. Tanker Victory ship when entering the mandatory pilotage waters of Belawan Port to moor at SPM 35,000 DWT Pertamina Belawan Port was not guided by the Pilot Officer on February 12 and 19, 2024.

The Belawan Main KSOP imposed sanctions on the Pilot Officers on duty on the KMP. Teluk Sinabang and MT. Tanker Victory ships in accordance with the authority held by the Belawan Main KSOP as the Pilotage Supervisor as stated in Article 54 paragraph 1 of PM 57 of 2015 concerning Pilotage and Ship Towing, namely Pilot 06 an. Tangsu Tambunan, Pilot 19 an. Zulkarnen and Pilot 12 an. Riden Manalu who did not carry out their duties and responsibilities in the form of a temporary release from duty for 1 (one) month for Pilot 06 according to the letter issued Number AL.325/1/1/SYB.BLW-2023 dated May 9, 2023 and a written warning to Pilot 19 and Pilot 12 according to the letter issued number AL.326/1/3/SYB.BLW-2023 dated March 15, 2023.

KSOP Utama Belawan in ensuring the safety and security of shipping in the Belawan port shipping lane as a pilotage supervisor always conducts pilotage evaluations in the form of periodic evaluations carried out every 6 (six) months and re-transfer evaluations every 2 (two) years in accordance with Article 48 and 49 paragraph 1 of PM 57 of 2015 concerning Ship Pilotage and Towing. The periodic evaluations referred to are examinations of aspects of safety, service and performance of ship pilotage and towing, including:

- a. The suitability and completeness of certification/licensing of guidance aids and infrastructure.
- b. Fulfillment of human resource requirements for guidance.
- c. Implementation of ship pilotage and towing services in a reasonable and appropriate manner in accordance with the established ship pilotage and towing service systems and procedures.
- d. Fulfillment of performance standards for ship pilotage and towing services set by the Director General.
- e. Payment of Non-Tax State Revenue for ship pilotage and towing services in accordance with applicable laws and regulations.
- f. Order and conformity of monthly reports on operational activities of ship pilotage and towing services.

The findings of the deficiencies in the inspection during the periodic evaluation or the evaluation of the delegation of the BUP implementing the ship pilotage and towing services must be fulfilled by the BUP concerned, proven by the preparation of a report and supporting evidence documentation for the fulfillment of the deficiencies in the inspection from the pilotage supervisor to ensure that all elements,





both from the facilities (tugboats and pilot boats), pilot officer human resources, and infrastructure (pilotage tower office) are in a condition worthy of operation.<sup>12</sup>

Likewise, the Pilot Officer in carrying out his duties and responsibilities to ensure the safety and security of shipping when the ship enters and exits the Belawan port shipping lane always coordinates with the captain through the master and pilot exchange of information according to the rules on the ship IMO Resolution A 960, the exchange of information from the captain to the pilot officer and from the pilot officer to the captain. The captain conveys the condition of his ship starting from internal factors of the ship such as: engine readiness, maneuverability of the ship's engine, navigation equipment, stability and draft of the ship and other things considered necessary. While the Pilot Officer conveys information about tidal conditions, water depth, traffic (traffic) of ship movements in the Belawan port shipping lane.<sup>13</sup>

In order to ensure the safety of the voyage, the captain must understand the instructions from the pilot officer on the importance of exchange of information related to the exchange of information as regulated in IMO resolution A 960. Releasing the results of the KNKT investigation, Capt. Johnny explained that the sea accident that resulted in oil spill pollution at sea and claimed the lives of 5 (five) fishermen, began when the MV. Ever Judger ship on March 30, 2018 sailed into the waters of Balikpapan Bay. The MV. Ever Judger ship carrying 75 thousand metric tons of coal was accompanied by the Balikpapan KSOP pilot ship. At that time when the ship entered the red zone because it was right above the Pertamina oil pipeline, the pilot officer via radio ordered the captain of the MV. Ever Judger to prepare to drop anchor only 1 meter below the surface of the waters of Balikpapan Bay. However, what happened was that the captain of the MV. Ever Judger misunderstood the pilot ship's order and ordered the First Officer to drop anchor at a depth of 1 seal or around 27.5 meters below sea level, resulting in dragging the oil pipeline under the sea. With this incident, we urge every captain who uses pilotage services to pay attention to the SOP regarding the exchange of information between the Pilot Officer and the Captain so that a similar disaster will not happen again.<sup>14</sup>

## **2. Sanctions Given by the Main KSOP Belawan to Pilot Officers Who Were Negligent in Carrying Out Their Duties, Causing Ship Accidents**

Based on Law 17 of 2008 concerning Shipping, Article 319 regulates criminal provisions against pilot officers, which states that pilot officers who conduct pilotage without having a certificate as referred to in Article 199 paragraph (1) shall be punished with a maximum imprisonment of 2 (two) years or a maximum fine of Rp. 300,000,000.00 (three hundred million rupiah). All Belawan port pilot officers have the certificates referred to in accordance with statutory provisions based on data from the Sipandu application (Ship Pilotage and Towing Information System) and SKPPP, where at the time of the issuance and extension of SKPPP and periodic evaluations or delegation evaluations, certification validation is always carried out for all pilot officers referred to by the pilotage supervisor. For the criminal violation process in Article 319 and shipping crimes in Law 17 of 2008, the process of imposing sanctions has been regulated, namely through a Preliminary Examination of Ship Accidents carried out by the Harbor Master or PPNS (Civil Servant Investigator) KSOP and the results of the preliminary examination of the ship accident are forwarded to the Shipping Court for further examination in accordance with Articles 220 and 221. The role of the shipping court as an institution that carries out the task of conducting further examinations (trials) and enforcing the code of ethics of the profession and competence of the captain and/or officers. The shipping court also in carrying out further tasks for ship accidents ideally has broad authority including presenting all parties related to the operation of the ship and the delegation of preliminary examinations. The aim is so that the examination of the case can take place quickly, and the causes of the accident are found to be appropriate for determining the verdict so that the accident does not recur. If the results of the further examination find other causes concerning criminal elements, then it can be followed up through the general court process.<sup>15</sup>

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Meanwhile, in PM 57 of 2015, article 54 regulates civil sanctions for pilot officers, "guides who make mistakes in carrying out their guiding duties are subject to sanctions in the form of administrative actions, including: a. written warning; b. not allowed to guide for a certain period of time according to the level of error; and c. revocation of the guide certificate." The process of giving administrative sanctions to pilots is carried out by the pilotage supervisor in this case the KSOP, but the mechanism for giving these sanctions has not been clearly regulated in the PM which regulates pilotage and ship delays, starting from the process of summoning the pilotage officer to be questioned for negligence committed and other parties deemed necessary to be questioned such as the shipping company, the ship's crew, and others until the publication of a report on the results of the information obtained and a decision on administrative sanctions issued by the pilotage supervisor (KSOP) to be addressed to the pilotage officer as the authority of the pilotage supervisor to determine whether or not the pilotage officer is fit to carry out duties in the local mandatory pilotage waters as stated in Article 11 paragraph 2 of PM 57 of 2015 "the pilot as referred to in paragraph (1) is required to carry out familiarization in the local waters and receive assignments from the pilotage supervisor," as well as a certificate of completion of administrative sanctions in the form of a prohibition on piloting for a certain period of time issued by the relevant pilotage supervisor for pilotage officers who receive administrative sanctions in accordance with Article 22 paragraph 3 letter f of PM 57 of 2015.

However, the case of the MV. Ever Judger ship in 2018 in Balikpapan, which did not understand the SOP for exchange of information between the captain and the pilot officer or from the pilot officer to the captain, explains the responsibility of the captain of the MV. Ever Judger for ship accidents that result in marine pollution. Through Presidential Decree Number 46 of 1986 concerning Ratification of the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978; International Convention for the Prevention of Pollution from Ships 1973, as modified by the Protocol of 1978 (MARPOL) Indonesia is legally bound to implement the norms contained in the agreement. Therefore, these norms apply or can be applied to the case of the oil leak in 2018 in Balikpapan.<sup>16</sup>

The duties and responsibilities of the captain based on the MARPOL convention are as follows:

- a. Serves as the highest leader on the ship.
- b. Ensure the safety of the ship's crew, the safety of the ship and the safety of the goods carried by the ship.
- c. Ship management involves arranging goods from the initial place of receipt to the destination.
- d. Checking safety equipment and ensuring that the ship is seaworthy is the captain's duty and obligation, but providing sailing safety equipment is the ship owner's obligation.

The duties and obligations along with the responsibilities of the captain according to the case description and also the MARPOL convention above, one of which states that the captain serves as the highest leader on the ship. This means that the captain has responsibility for the crew, if an incident occurs, including an incident of violation of the law.<sup>17</sup>

The incident above was due to a communication error between the ship's guide and the defendant, who should have lowered the anchor 1 meter above sea level, but the captain of the MV. Ever Judger ship who was also the defendant in the incident lowered the anchor by 1 seal (27.5 meters) which caused the ship's anchor to scratch the underwater pipe and cause an oil leak in Balikpapan Bay. The mistake made by the captain caused him to be responsible for the leak and be punished according to the environmental protection law in Indonesia. Article 4 of the MARPOL convention stipulates that the applicable legal jurisdiction in the event of a violation is the law in the country where the incident occurred.<sup>18</sup> Criminal



and civil legal settlements have also been carried out in the Indonesian court forum based on Indonesian laws and regulations, namely the captain of the Panama-flagged MV. Ever Judger ship is criminally responsible for marine pollution due to oil leaks for 10 years and a fine of IDR 15,000,000,000 (fifteen billion rupiah) and a subsidiary of one year in prison.<sup>19</sup>

The legal incident of the MV. Ever Judger ship above which killed 5 (five) fishermen was processed legally by the Police because it involved general criminal violations (KUHP), the captain was suspected of violating Article 98 paragraph 3 of the Law on Environmental Protection and Management and Article 359 of the Criminal Code concerning negligence causing others to lose their lives. Then for international MARPOL regulations, it has been adopted in Law 17 of 2008 and PM 29 of 2014 concerning Prevention of Maritime Environmental Pollution. From the incident, the captain should have conducted maritime communication with the ship's guide using VHF (Very High Frequency) radiotelephony on the ship and not using HT (Handy Talkie) because usually communication using HT does not produce maximum output sound/not as clear as the sound produced via radiotelephony and the captain should have ordered the radio officer who carried out communication with the ship's guide because the radio officer is a person who has special competence to communicate from ship to ship, or from ship to land/coastal radio station via the required channel, namely channel 12 communication from ship, pilot officer, ship and pilot motor and tug and if the instructions from the ship's guide to the MV. Ever Judger ship are considered unclear so that the captain through the radio officer asks the ship's guide again what message is meant, so that what is done does not become something wrong that can cause an accident.

Meanwhile, for the KMP. Teluk Sinabang ship that experienced an emergency situation running aground in the mandatory pilotage waters of Belawan Port, the sanctions given by the Belawan Main KSOP as the pilotage supervisor to the Pilot Officer, namely Pilot 06 who was negligent in carrying out his duties resulting in an accident/ship accident, namely in the form of temporary release from duty for 1 (one) month for the person concerned, are in accordance with the applicable legal provisions based on Article 54 PM 57 of 2015 concerning Pilotage and Ship Delays, which reads that Pilot Officers who make mistakes in carrying out pilotage duties are subject to sanctions in the form of administrative actions:

- a. Written warning.
- b. Should not guide for a certain period of time according to the error rate, and
- c. Revocation of guide certificate.

In its development, seen in the news and social media recently, when a ship accident occurs, the person asked who the pilot is. As if the pilot is at fault and fully responsible for the accident. The pilot is only an advisor as stated in the regulation of Article 24 paragraph 1 of PM 57 of 2015 concerning Ship Guidance and Towing, namely the service provided by the pilot is assistance to the Captain or ship leader to be able to take appropriate action in order to ensure the safety and security of sailing, as well as protection of the maritime environment and in Law 17 of 2008 concerning Shipping, the definition of pilotage is the activity of a pilot in assisting, providing advice, and information to the Captain about the condition of local waters that are important so that navigation can be carried out safely, orderly and smoothly for the safety of the ship and the environment. So far, our experience as pilots, when the on-board pilot goes up to the ship, the captain seems to give his full authority to the pilot and as if the pilot is considered to know everything. However, based on international regulations IMO (International Maritime Organization), STCW (Standards of Training, Certification and Watchkeeping) and COLREGs (Collision Regulations) / P2TL (Regulations for Preventing Collisions at Sea) that when maneuvering a ship in port and outside the port, full responsibility lies with the captain as stated in rule 2 point a in the Regulations for Preventing Collisions at Sea which regulates responsibility with the statement Nothing in these rules will relieve any ship or its owner, captain or crew, from the consequences of any failure to comply with these rules or failure to take any precautions deemed necessary according to the customs of seafarers or to the special circumstances in which the ship is located.<sup>20</sup>

If a ship accident occurs at Belawan Port in the future, the pilot officer should be given the fairest possible sanctions in accordance with their respective functions and responsibilities based on applicable

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regulations. The pilot officer is subject to administrative sanctions in accordance with Article 54 of PM 57 of 2015 concerning Ship Guidance and Delay.<sup>21</sup>

In PM 57 of 2015, it is also regulated in CHAPTER VI regarding the procedures and requirements for the delegation of the implementation of ship pilotage and towing, that such as in Batam Port, Dumai Port, Banjarmasin Port, Palembang Port, Pangkalan Susu Port and several other ports in Indonesia have several BUP (Port Business Entities) that serve ship pilotage and towing activities in one port. This can create positive competition if there are several BUPs in a port. Competition can give you a new perspective that rivalry or competition does not always mean something negative. In certain contexts, competition can encourage us to be the best.<sup>22</sup> For example, with the existence of a new BUP in Belawan Port, it is hoped that the performance of the pilot officers will be even better by providing better service to ships that will enter and exit from and to Belawan Port.

## **CONCLUSION**

Based on the discussion in this study, the following conclusions can be drawn:

That the Main KSOP Belawan as the pilotage supervisor must increase supervision of the pilotage officer's activities so that the pilotage officer works in accordance with his duties, functions and authorities as regulated in Law Number 17 of 2008 concerning Shipping and its derivative regulations and the pilotage officer carries out his duties, responsibilities and authorities in accordance with the Sispro for ship pilotage and towing services at Belawan Port to ensure the safety and security of shipping and prevent accidents/ship accidents in the Belawan Port shipping lane.

The case of the KMP. Teluk Sinabang ship which ran aground at Bouy 5, Belawan port on March 14, 2023, Pandu 06 received a sanction of temporary release from duty and was unable to guide the ship for 1 (one) month as stated in the letter AL.325/1/1/SYB.BLW-2023 dated May 9, 2023. Then the case of the MT. Tanker Victory ship which was not guided by a pilot officer at the entrance to Belawan port on February 12 and 19, 2023, by the pilotage supervisor (KSOP Utama Belawan) imposed a sanction in the form of a written warning to Pandu 19 and Pandu 12 as stated in the letter number AL.326/1/3/SYB.BLW-2023 on March 15, 2023.

Regarding the sanctions imposed on pilots who are negligent in carrying out their duties, the Belawan Main KSOP as the pilotage supervisor has given a deterrent effect to pilots who are not professional in carrying out their duties, where pilots should go on board or get off in carrying out pilotage duties at the PBG (Pilot Boarding Ground) point around bouy 2 in the waters of Belawan harbor. If the pilot in question is found to be repeating the same mistake, namely not carrying out pilotage at the location that has been determined based on applicable provisions, the administrative sanctions given should be increased again, namely not being allowed to guide for a period of at least 3 (three) months to truly provide awareness and create professional pilots in carrying out their duties. As well as the pilotage supervisor in giving administrative sanctions to pilots who are negligent in carrying out their duties is in accordance with that stated in the applicable regulations in article 54 PM 57 of 2015 concerning Ship Pilotage and Delay in the form of a written warning, not being allowed to guide for a certain period of time according to the level of error and revocation of the pilot certificate.

The first proposal for the addition of BUP (Port Business Entity) that provides ship pilotage and towing services at Belawan Port will have a positive effect on the performance of pilot officers to work more professionally in carrying out their duties and provide excellent service to ships entering and leaving Belawan Port. If there are other BUPs that provide this pilotage and towing service, the service will become more competitive and have the potential to improve quality. However, with the monopoly on pilotage and towing services, service users have no other choice even though the quality of service

provided is not as expected.<sup>23</sup> With optimal service and competitive ship pilotage and towing rates, it is hoped that in the future there will be no accidents/ship accidents in the mandatory waters of the Belawan Port shipping lane so that investors are more confident in investing in Belawan Port, North Sumatra Province through sea transportation.

The second proposal to revise the Regulation of the Minister of Transportation Number PM 57 of 2015 concerning Ship Pilotage and Towing is that such as the SKPPP (Certificate of Appointment of Pilot Officer) mechanism and the mechanism for imposing sanctions from pilotage supervisors to pilot officers and the Sipandu (Ship Pilotage and Towing Information System) application that have not been regulated in the regulation and other matters deemed necessary to be accommodated in the regulation.

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