

Piracy Armed Robbery, Illicit Trafficking Maritime Terrorism (legal perspective)



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Curriculum Vitae

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 - Bachelor Degree, Diponegoro Univ, Indonesia (Inter' law)
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Outline

- Background
- Maritime Security Threats
- Indonesia Challenges
- Legal Basis of Law Enforcement
- What's next

TRANSNATIONAL CRIMES

Engagement – Communication -Coordination- Cooperation- Integration

Transnational Crimes

- **Crime: group/ more 3 persons, cross border, private ends**
- **UN identify TOC:**
 - **money laundering**
 - **Terrorism**
 - **theft of art and cultural objects**
 - **theft of intellectual property**
 - **illicit arms trafficking**
 - **aircraft hijacking**
 - **sea piracy**
 - **insurance fraud**
 - **computer crime**
 - **environmental crime**
 - **trafficking in persons**
 - **trade in human body parts**
 - **illicit drug trafficking**
 - **fraudulent bankruptcy**
 - **infiltration of legal business**
 - **corruption and bribery of public or party officials**

Maritime Security Threats

- Illegal Fishing
- Piracy/sea robbery
- People smuggling
- Drug Trafficking
- Weapons trafficking
- Terrorism
- Illegal Fishing
- Marine bio-security
 - introduced marine pests



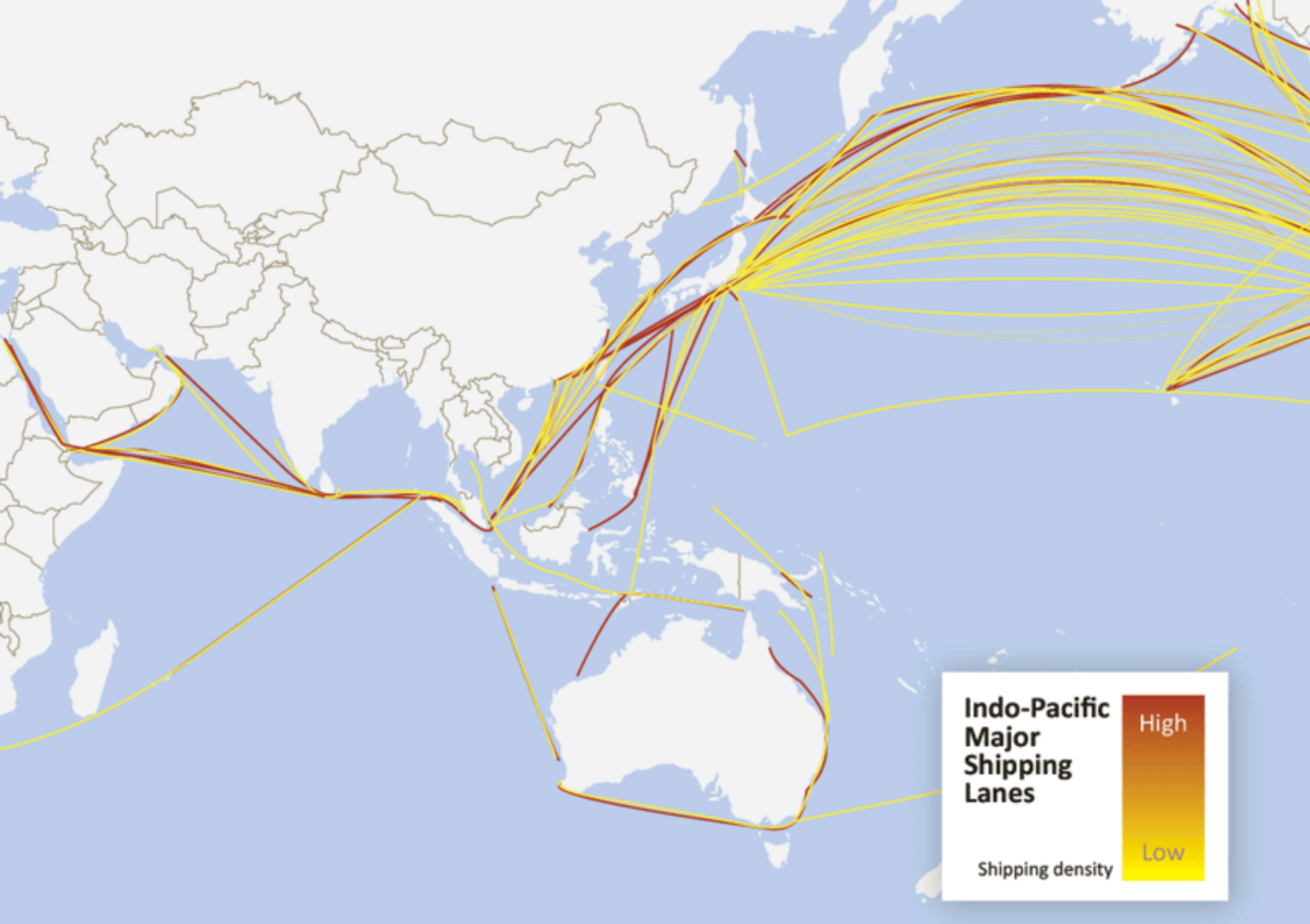
INDONESIA CHALLENGES

Engagement – Communication -Coordination- Cooperation- Integration

Geography of Indonesia



- ✓ **Archipelagic State**
- ✓ **Cross road**
- ✓ **Maritime Fulcrum**



**South China Sea
Major Crude Oil Trade Flows
Millions of barrels per day
2011**



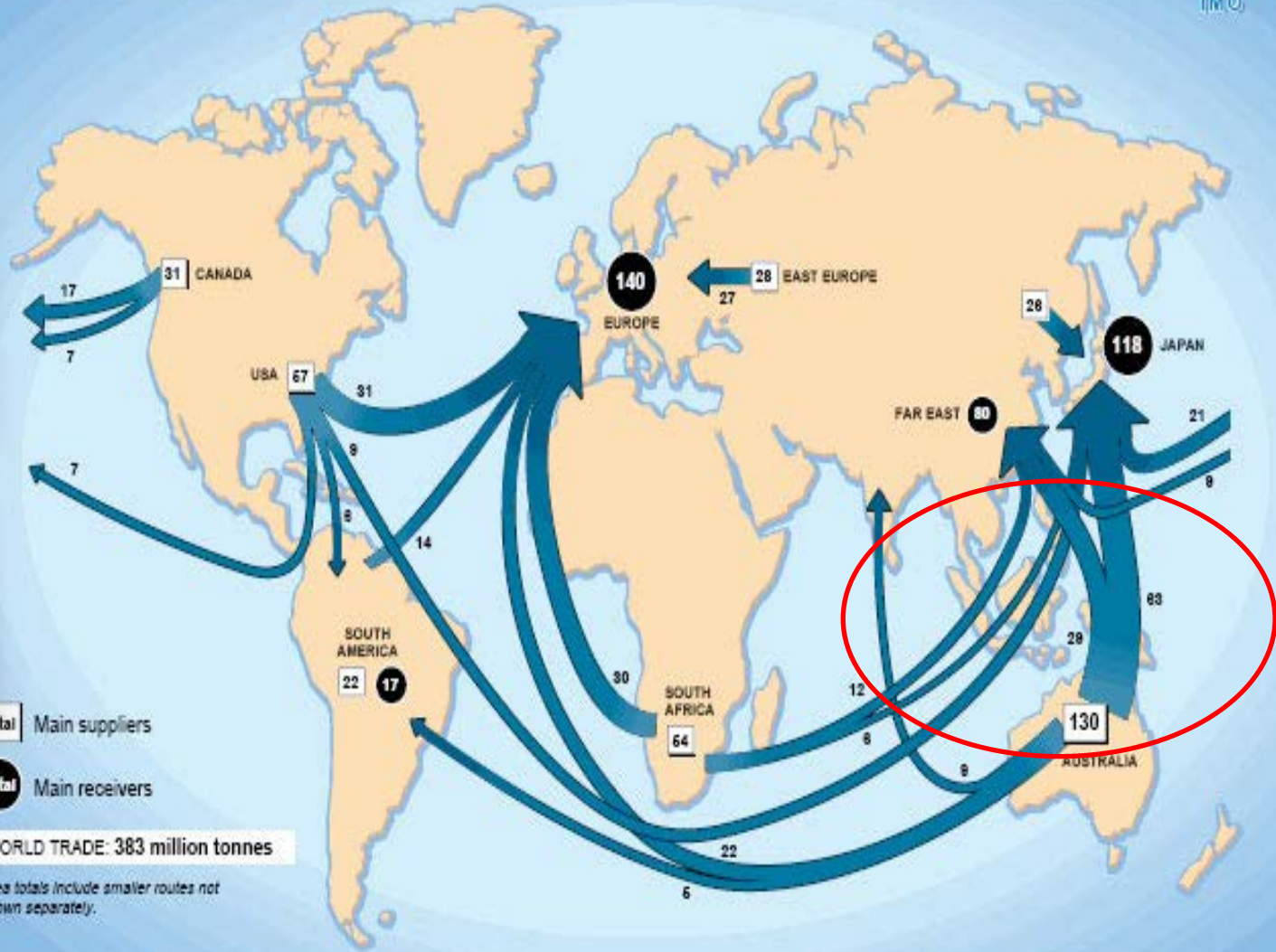
**South China Sea
Major LNG Trade Flows
Trillion cubic feet
2011**



Coal Seaborne Trade

Coal seaborne trade

Main inter-area movements in million metric tonnes, 1994.



Indonesia on Combating TOC?

Back Ground

- ✓ Geography of Indonesia
- ✓ Population
- ✓ Natural resources

Effect

- ✓ Legal System
- ✓ Economic System
- ✓ Socio cultural System
- ✓ Governance, politic System
- ✓ State sovereignty

Reponses

- Global;
 - IMO
 - APEC
- Regional:
 - ASEAN
 - ASEAN Regional Forum (ARF)
- Bilateral:
 - Coordinate Patrol

Maritime Confidence-building Measures (MCBM)

Military

Measures in the defense/military field that reduce the risks of tensions and conflict, and of misunderstanding or miscalculation with military activities at sea

- **3 measures:**
- Declaratory – statements of intent
- Transparency - communication, notification, observation
- Constraint – exclusion/separation zone

Non Military

Include oceans management regimes and cooperative arrangements for navigation, safety, search and rescue, resources, marine environmental protection, etc

- **Purposes:**
- 1. Maritime regimes for good order at sea
- 2. 'Building blocks' for habits of cooperation and dialogue

LEGAL BASIS ON LAW ENFORCEMENT

Engagement – Communication -Coordination- Cooperation- Integration

Legal Limits

- Coastal/Archipelagic Sovereignty: Art. 2
 - Internal Waters,
 - Archipelagic Waters
 - Territorial Seas
- Freedom of Navigation: Art. 87
- Flag States Enforcement: Art. 92

Approach n Visit

- Available in Peace n War
- WARSHIP Right to ascertain Flag & Employment of Merchant & other Vessel
 - UNCLOS, ART. 110
- Warship can *aboard* another Ship (Non-Sovereign Immune),
- Must have Reasonable Suspicion of:
 - Piracy, Slave Trade, Same Flag, Un Authorized Broadcasting, others Illegal Activities contravene National Legislation.
 - Can go Aboard to verify the Crime Committed
 - Have obligation to Pay damages, if wrong

Limitations imposed by LOSC

- Enforcement action only by warships, military aircraft or other government vessels clearly marked and identified for such purpose
- Examples of Application
 - Art 29 defines warship
 - Art. 107: who can seize a pirate ship?
 - Art. 111(5) -who can engage in hot pursuit?
 - Art. 224 - who can exercise pollution enforcement powers?

Indonesia Experience

- Operation at Sea
 - Detection
 - Stop
 - Boarding
 - Search
 - Arrest..
- On shore/land:
 - Legal process (prosecution, legal proceeding)

Law Enforcement Bodies (Indonesia)

- Navy
- Police
- Ministry of Fisheries: Fisheries
- Ministry of Legal n HR: Immigration
- Ministry of Finance: Custom
- Ministry of Transportation: Safety of Navigation
- Sea Security Board.

Remaining Issues

- Political sensitive on Sovereignty
 - lack of trust continues to impede operational cooperation
- Interpretation of LOSC
- Territorial disputes and undelimited maritime boundaries
- Foreign naval presence/operations
- Capacity of regional states



End of Presentation

Enjoy Padang, Indonesia