

An aerial photograph of a tropical island with lush green vegetation and a white sandy beach. The surrounding water is a vibrant turquoise, revealing a complex coral reef system. Several small boats are visible in the water. The sky is a clear, pale blue.

Legal and Political Challenges and Prospects

International Conference on Regional Cooperation for The Protection of the Marine Environment

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OUTLINE

1. State Obligations and Responsibility:
 - a. International Principles
 - b. UNCLOS Provisions
2. Indonesia's Law and Policy
3. Legal and Political Challenges and Prospects
4. Case Study I: Montara Incident
5. Case Study II: Regional Framework on Transboundary Oil Pollution
6. Case Study III: Marine Plastic Debris
7. Conclusions



INTERNATIONAL PRINCIPLES

Several relevant principles of international law, which endorsed *inter alia* by the UN General Assembly, the International Law Commission, and Judicial Decisions

- 'No harm' principle
- Notification, Consultation and EIA
- Prevention and Precaution

International Cases:

- *Trail Smelter Arbitration* (1938-1941)
- *The Pulp Mills Case*
- *Legality of the Threat/Use of Nuclear Weapon* (ICJ 1996)
- *The Corfu Channel Case* (ICJ 1949)



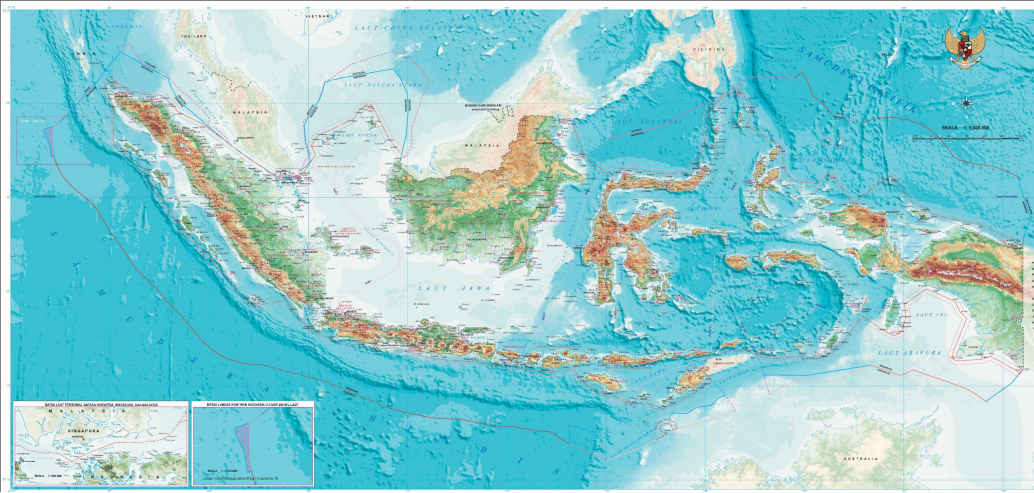
UNCLOS PROVISIONS

PART XII: Protection and Preservation of the Marine Environment

- Article 192: General obligation
- Article 193: Reaffirmation of permanent sovereignty
- Article 194: An obligation to reduce pollution from any source:
Land-Based Pollution (Art. 207), Sea-bed Activities (Art. 208)
Activities in the Area (Art.209), Dumping (A.210), Pollution from Vessels (Art.211), Pollution from or through the atmosphere (A.212).
- Articles 197-201: Global and regional cooperation
(by formulating rules and standards, giving notification of imminent or actual damage, and undertaking research and the exchange of information)
- Articles 213-233: Enforcement and Safeguards measures (Coastal states, flag states and port states)



INDONESIA'S SEAS



- Indonesia's territory is largely ocean and more than 2/3 is deep sea
- Waters area: +/- 7.8 million km²
- Coast line: 99,093 km²
- Islands: 17,504 (13,466 have been registered to the UN Conference on the Standardization of Geographical Names)
- Numerous active volcanoes including underwater volcanoes
- Strategic location: connecting two Oceans (Indian and Pacific) and two Continents (Asia and Australia)
- Pivotal maritime/shipping passages and choke points e.g. Malacca Straits, Sunda Strait, Singapore Strait, and Lombok Strait
- Mega Marine biodiversity: coral reef, mangrove, fish, etc

INDONESIA'S NATIONAL LAWS AND POLICY

- Law No. 6/1996 on Indonesian Waters
- Law No. 32/2014 on Marine Affairs
- Law No. 32/2009 on Env Management
- Government Regulation (GR) No. 21/2010
- GR No. 19/1999 on Marine Env Protection
- Presidential Regulation No. 109/2006
- Ministerial Regulation No. 58/2013
- Etc



INDONESIA'S NATIONAL OCEAN POLICY (KKI)

- **7 Pillars:**

Pillar on sea space management and marine protection

- 6 Marine spatial development policies
- 6 Marine environment policies/programs

Main programs e.g.

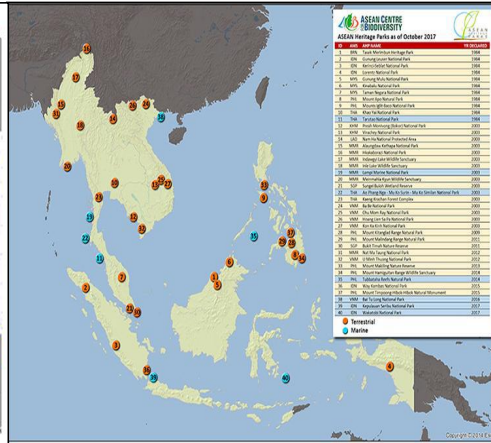
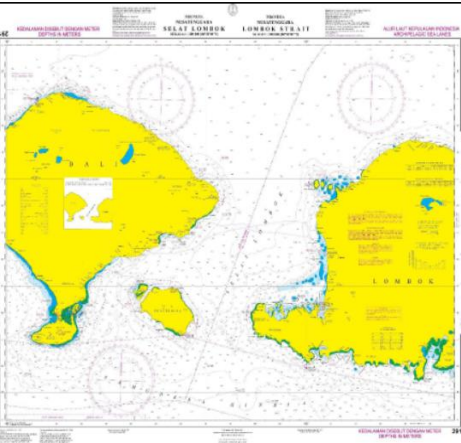
- Development of international cooperation on marine Environment protection
- Prevention and restoration of marine pollution
- Reinforcement of the conservation of ecosystem, species, and genetics

Principles of Indonesia's NOP

> Sustainable development > Blue economy > Integrated and transparent management > Participation > Equality and equity



INDONESIA'S EFFORTS THROUGH MULTILATERAL AND REGIONAL COOPERATION



**Designation of
PSSA in Lombok
Strait**



**Cooperative Mechanism:
CF, PCC and TTEG in the
Straits of Malacca and
Singapore (SOMS)**

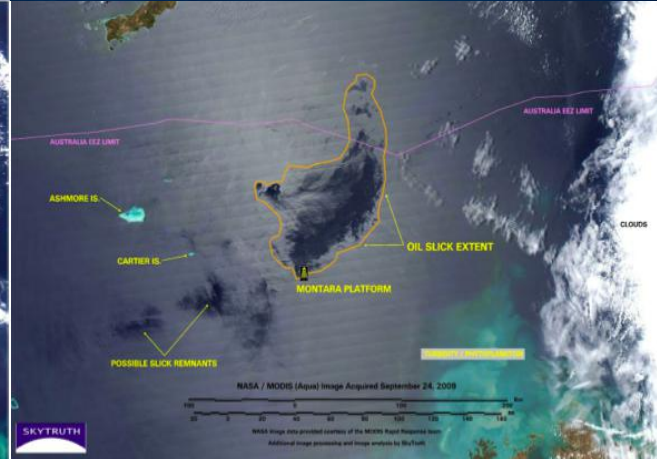
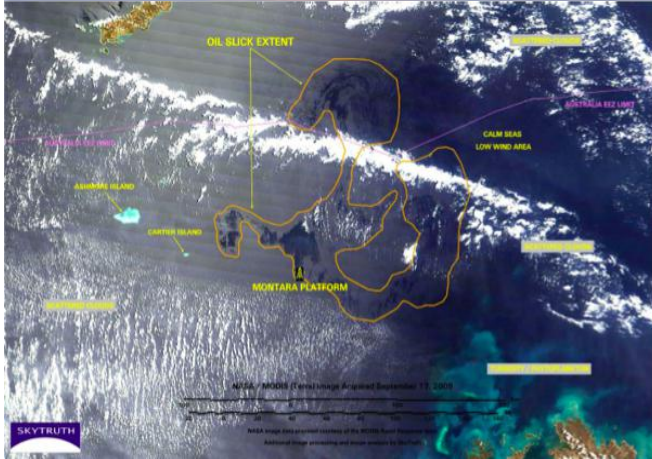
CHALLENGES

- Vast marine areas of Indonesia +/- 7.8 million km²
- Great necessity of financial resources, maritime infrastructure, equipment, and assets
- High population density
- Rapid industrialization
- Disparity among regions
- Different types of threats from natural hazard to security

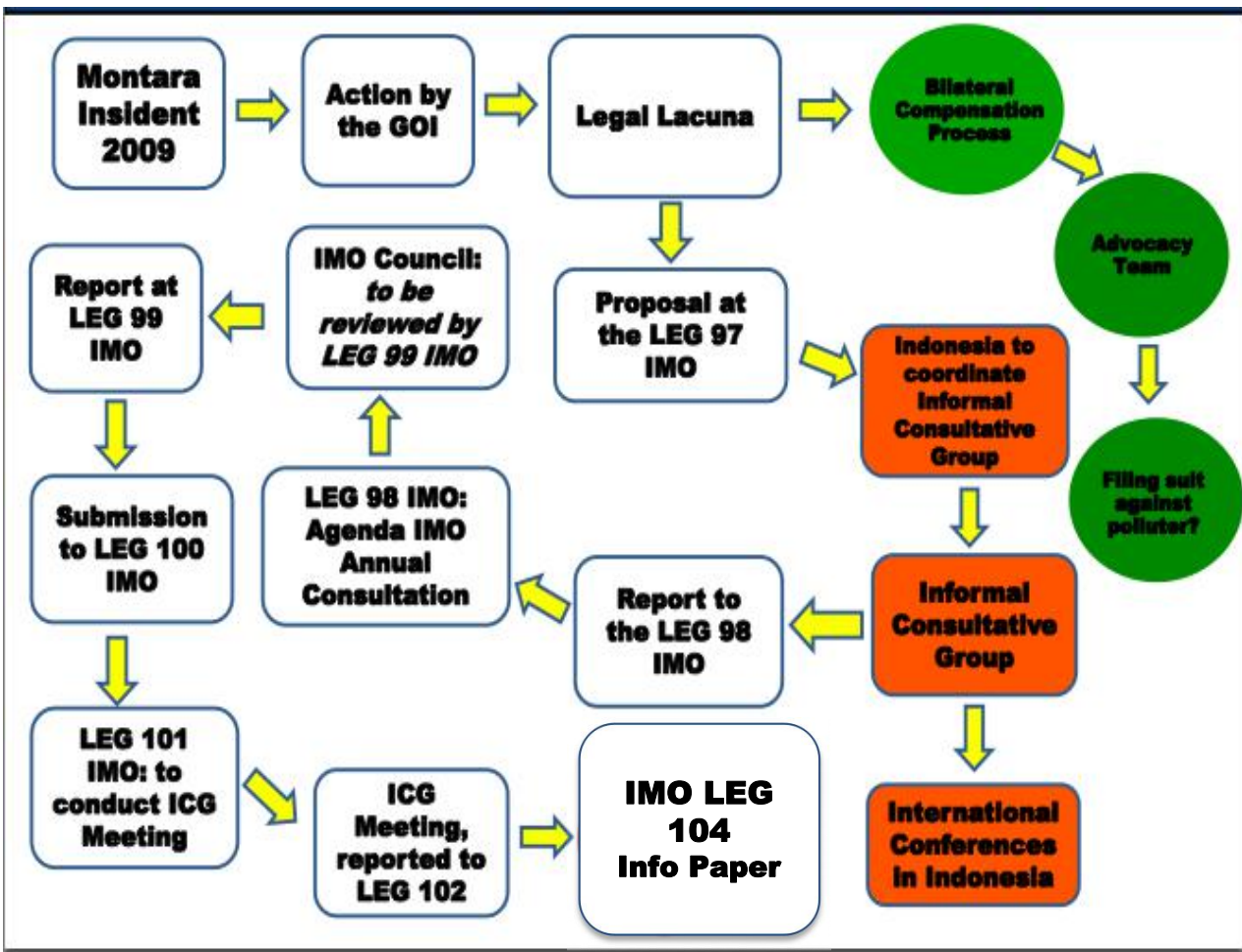
- Various forum on marine environment protection > more opportunities
- Further commitments from government e.g. UN Ocean Conference, OOC, EAS, etc
- Support from other States, IO, etc
- Involvement/action of community
- Less contentious issue

PROSPECTS

CASE STUDY I: MONTARA INCIDENT



- Explosion at Montara Well Head Platform on 21 August 2009
- Situated in West Atlas Block, Timor Sea Water, Australia
- Spill of oil and hydrocarbon gases +/- 400 barrels/day
- Social & economic losses, marine environment damage, and property damage



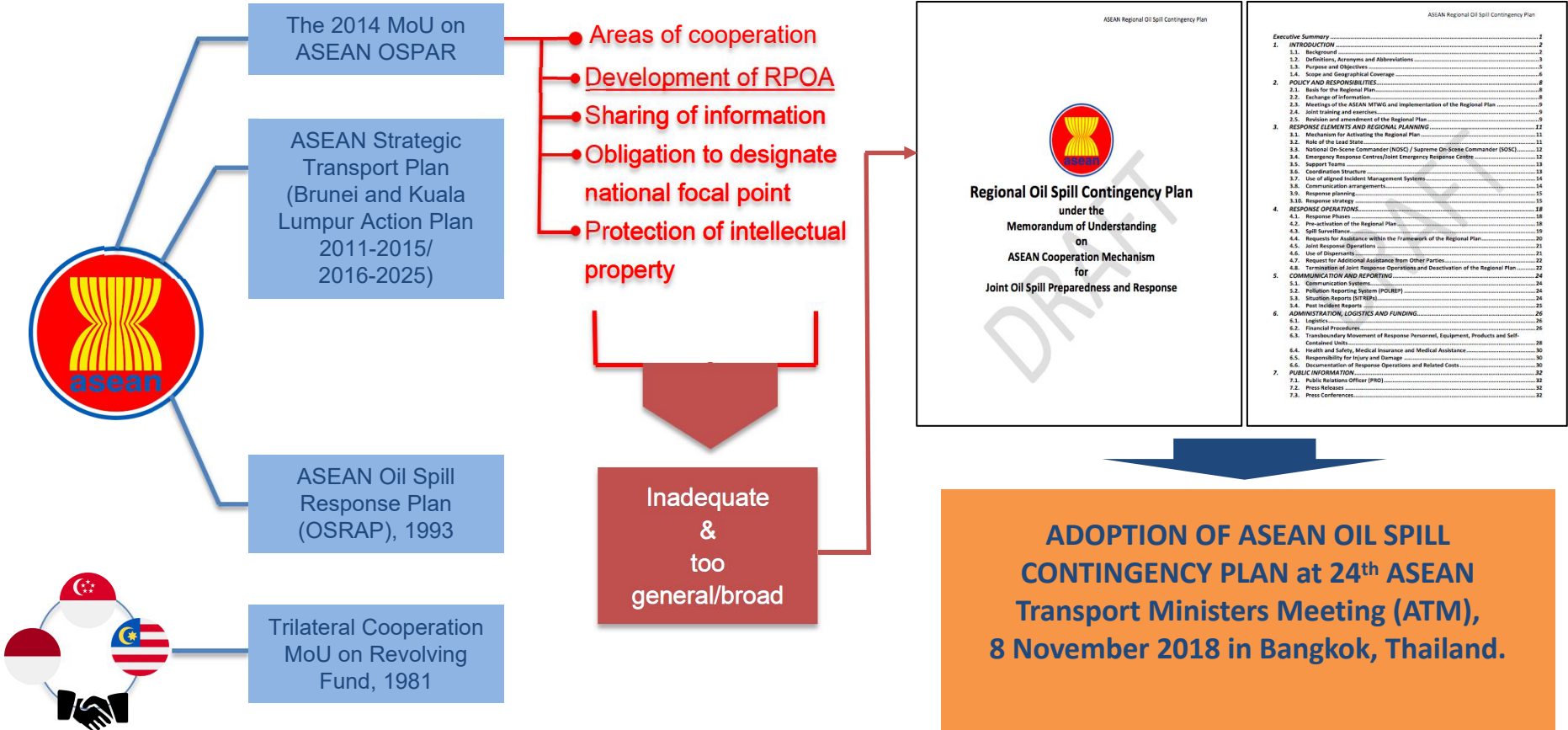
Information Paper on Guidance on Liability and Compensation related to Transboundary Oil Spill from Offshore Activities

- Scope of application
- Pollution prevention and emergency plan
- Reporting and cooperation in emergency situation
- Settlement of claims
- Polluter pays principle
- Liability and limitation of liability

INDONESIA-AUSTRALIA BILATERAL COOPERATION

- MoU 1996 on Oil Spill
- MoU 2018 on Trans-boundary Oil Pollution

CASE STUDY II: REGIONAL EFFORTS IN COMBATING TRANSBOUNDARY OIL POLLUTION



CASE STUDY III



MARINE PLASTIC DEBRIS

- Major issue in Indonesia e.g. polluted rivers
- Second largest contributor of plastic pollution > 3.22 mmt/year
- Widely used and cheap to produce
- Lack of awareness and recycling facilities
- Great amount of funds needed

INDONESIA'S NATIONAL EFFORTS

- Law No. 32/2009 on Environment
- Law No. 32/2014 on Marine Affairs
- Law No. 27/2007 on Coastal Area & Small Island
- Law No. 18/2008 on Waste Management
- Pres. Reg. No. 83/2018 on Marine Litter
- National Action Plan:
Raising awareness, addressing land-based pollution, financial investment, law enforcement, and research and development

GLOBAL & REGIONAL COLLABORATION

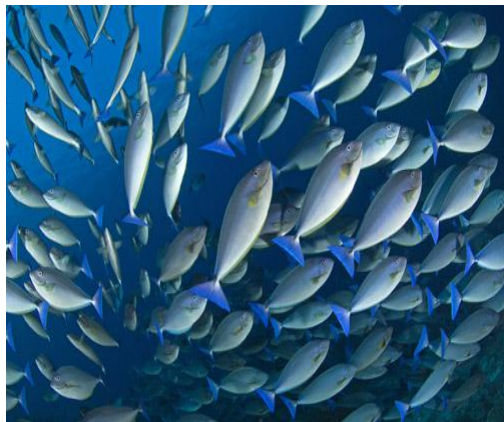
- UN Ocean Conference, Our Ocean Conference (OOC), etc
- UNEP Intergovernmental Review Meeting of the Global Programme of Action
- APEC, G20 Declaration
- ASEAN, EAS regional legal framework

CONCLUSION

- More agenda/efforts to address marine environment issues: IUUF, Oil Spill, etc
- Synergy between Int'l Law and Soft Law (Plan of action, voluntary commitments, etc)
- Require to establish regional compliance mechanism through existing bodies
- Further engagement with concerned States
- Emerging issues e.g. climate change, BBNJ

- **Lessons learned:** regional cooperation through ASEAN, Cooperative Mechanism in the SOMS, Indian Ocean Region Association (IORA), Coral Triangle Initiative (CTI), APEC, APHoMSA, etc
- **Challenges** > different level of development, political and economic interests, domestic factors
- **Prospects** > growing interest/willingness, various regional bodies/cooperation, support from others

FUTURE DIRECTIONS



THANK YOU





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