



The Use of Special Terminals for the Interests of Other Parties: An Analysis of the Authority and Discretion of the Harbormaster and Port Authority Office (KSOP) from the Perspective of Legal Certainty

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Abstract: In principle, a Special Terminal (*Terminal Khusus, Tersus*) is established to support the business activities of its owner and is not intended to serve the public interest. In practice, however, limitations in the capacity and facilities of public ports have resulted in *Tersus* facilities frequently being used for the loading and unloading of goods belonging to other parties through an authorization mechanism. This study aims to analyze the legal framework governing the use of *Tersus* facilities by other parties, the practical needs underlying such use, and the authorization mechanism and authority of the Harbormaster and Port Authority Office (*Kantor Kesyahbandaran dan Otoritas Pelabuhan, KSOP*) in granting approval. This study employs normative legal research using statutory and legal-theoretical approaches, drawing on legal positivism, the theory of authority, administrative law theory, and the theory of legal certainty. The findings demonstrate that Law Number 17 of 2008, Government Regulation Number 61 of 2009, and Minister of Transportation Regulation Number PM 52 of 2021 provide a legal basis for the use of *Tersus* facilities by other parties but do not comprehensively regulate the parameters, procedures, and criteria for granting authorization. This regulatory gap leaves considerable scope for administrative discretion by the KSOP, potentially creating legal uncertainty and disparities in policy implementation. Accordingly, regulatory harmonization, clearer technical guidelines, and simplified authorization mechanisms are required to enhance legal certainty and the effectiveness of public services and to support the efficient operation of national logistics.

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1. Introduction

Ports play a vital role in the Indonesian economy. The availability of adequate port infrastructure is essential to supporting the mobility of goods and people

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throughout the country. Ports constitute an important means of connecting regions across islands as well as facilitating international connectivity. However, the condition of ports in Indonesia remains a matter of concern. Many existing ports have been described as outdated. Among 134 countries, Indonesia ranked 95th in port competitiveness, representing a slight improvement from its 104th position in 2008 ([Purwanto, 2015](#)).

A Special Terminal (*Terminal Khusus, Tersus*) is a port facility constructed and operated for the operator's own interests rather than for the public interest. Such a terminal is generally located outside the designated port working area and port interest area but remains connected to the main port. Its purpose is to support the principal business activities of a company, including those in the mining, energy, industrial, and other sectors.

Tersus is a facility used for the loading and unloading of particular types of goods and is specifically regulated by the government. In practice, *Tersus* facilities are used not only for particular types of goods but also for general cargo, thereby serving as an alternative where existing ports are unable to provide more efficient and controlled loading and unloading facilities. This practice gives rise to several legal issues concerning the management, supervision, and authority governing the use of *Tersus* facilities within the framework of Indonesian law.

Although Minister of Transportation Regulation Number PM 52 of 2021 provides for the possibility of using Special Terminals (*Tersus*) by other parties through a specific authorization mechanism, its implementation continues to raise several issues. The involvement of multiple government agencies in the authorization process, the absence of detailed technical guidelines, and the broad scope of discretion vested in the Harbormaster and Port Authority Office (KSOP) may create legal uncertainty for both business actors and government authorities.

From the perspective of administrative law, these circumstances reveal a tension among the principle of legality, the requirements of public service, and administrative discretion. From the perspective of the theory of legal certainty, meanwhile, the use of *Tersus* facilities by parties other than their owners remains open to interpretation, potentially resulting in differences in the application of law across the respective jurisdictions of KSOP offices.

Based on the foregoing discussion, there is a need for an in-depth examination of the legal framework governing the use of Special Terminals (*Tersus*) for the loading and unloading of goods belonging to other parties, the practical needs underlying such use, and the authority of the Harbormaster and Port Authority Office (KSOP) to grant approval for the use of *Tersus* facilities. Such an examination is particularly important given the strategic role of the port sector in facilitating national logistics, promoting investment, and supporting the achievement of

national economic development targets.

Against this background, the present study examines the issue from the perspective of applicable Indonesian law. Previous studies have addressed related aspects of port and maritime governance but have focused on different issues. (Apriani et al., 2022), examined the effectiveness of implementing vehicle-loading systems on roll-on/roll-off (ro-ro) ferries, emphasizing supervision activities, the capacity and capabilities of vessel crews, and compliance with applicable regulations and internal standard operating procedures (SOPs). (Sitompul et al., 2020), examined the legal policy governing port management, including the involvement of central and regional governments and conflicts concerning port utilization and the exercise of authority. In addition, (Guntur Dano Muhammad, 2025) examined the acceleration of maritime infrastructure development in supporting increased investment, expanding access to export markets, and strengthening interregional connectivity in Southeast Sulawesi. Previous research has also addressed the legal policy governing port management between central and regional governments (Apriani et al., 2022). These studies provide relevant perspectives on port operations, governance, and maritime infrastructure; however, they do not specifically examine the legal framework governing the use of *Tersus* facilities by other parties or the authority and administrative discretion of the KSOP in granting such approval.

Kartini et al., examined obstacles encountered in the authorization process for Special Terminals (*Tersus*) in Tanjung Api-Api, Banyuasin, particularly in relation to the development of *Tersus* facilities and Terminals for Own Interests (Terminal untuk Kepentingan Sendiri, TUKS). These obstacles were attributed to a lack of understanding in implementing the relevant regulations, as well as the absence of adequate road access and the required Environmental Impact Assessment (AMDAL) (Kartini, Kelana, Santoso, H.F Marpaung, et al., 2022).

The research gap lies in the fact that previous studies have primarily focused on authorization for the development of *Tersus* facilities and their management, while the specific parameters governing authorization for the use of *Tersus* facilities to load and unload goods belonging to other parties under particular circumstances have not been specifically examined. Accordingly, this study analyzes the mechanism and authorization requirements for the use of *Tersus* facilities from the perspective of legal certainty, as well as the extent of the discretionary authority vested in the Harbormaster and Port Authority Office (KSOP) as the government authority representing the Ministry of Transportation in this context.

This study aims to analyze the authorization mechanism for the use of *Tersus* facilities for the loading and unloading of goods belonging to other parties and the legal framework governing the use of *Tersus* facilities by such parties.

2. Methods

This study employs interviews and normative legal research using statute approach, conceptual approach, and case approach to examine practices concerning the use of Special Terminals (*Tersus*) by other parties in the port sector. The statutory approach examines Law of the Republic of Indonesia Number 17 of 2008 concerning Shipping (2008), as amended by Law Number 66 of 2024; Government Regulation of the Republic of Indonesia Number 31 of 2021 concerning the Administration of the Shipping Sector (2021); and Regulation of the Minister of Transportation of the Republic of Indonesia Number 52 of 2021 concerning Special Terminals and Terminals for Own Interests (2021). The study also employs several legal theories as analytical frameworks. Hans Kelsen's theory of legal positivism emphasizes that law consists of rules established by competent authorities and must be observed irrespective of moral considerations ([Suhenriko, 2023](#)).

This theoretical perspective is relevant to analyzing compliance with the regulatory framework governing *Tersus*. The theory of authority is used to examine how authority and rights relating to the management of public facilities, including *Tersus*, are established and exercised in accordance with applicable law ([Kurniawan et al., 2024](#)). Administrative law theory is employed to analyze the governmental administration and administrative supervision of port facilities ([Sharon, 2021](#)). Finally, the theory of legal certainty is used to assess whether the rules and procedures governing the use of *Tersus* facilities for general cargo are sufficiently clear to prevent legal disputes ([Mursidah, 2024](#); [Manullang, 2022](#)).

3. Results

Through the Stufenbau Theory, Hans Kelsen explains that the legal system is structured in hierarchical levels, in which each norm derives its legitimacy from a higher norm, culminating in the constitution as the basic norm (*Grundnorm*). Accordingly, all laws and regulations must be formulated consistently with the hierarchy of norms in order to establish a coherent legal system that provides legal certainty to society. Consequently, where a regulation conflicts with a higher norm, it loses its legitimacy and binding force ([Suhenriko, 2023](#)). This theory emphasizes that the validity of applicable law is determined not only by the substance of its provisions but also by its conformity with the prevailing system of norms.

From the perspective of legal science as *sui generis*, law is regarded as a discipline with distinctive characteristics because of its normative nature (*nomos*), which regulates human conduct through a body of binding rules. This normative character provides the foundation for the formation of applicable law as the source of legality in the administration of the state. Accordingly, a governmental action, including the granting of authorization in the port sector, can be legally justified only

where it has a clear legal basis and is carried out in accordance with applicable laws and regulations (Putri & Aulia, 2023; Kusumawardhani, 2023; Nurani et al., 2025).

In addition to the theory of legal positivism, this study employs the theory of authority as a basis for analyzing the exercise of governmental functions in the administration of Special Terminals (*Tersus*). According to the theory of authority, legal authority derives from power conferred by law upon a government organ to perform specific functions. Such power is not absolute, as it is limited by the rights and obligations prescribed by laws and regulations. Accordingly, power legitimized by law becomes legal authority that must be exercised responsibly and in accordance with the purposes for which it was conferred (Sharon, 2021).

Bagir Manan explains that legal authority comprises two principal elements: rights and obligations. Rights confer discretion upon public officials to act or refrain from acting within the scope of their authority, whereas obligations require such officials to exercise their authority in accordance with applicable law. Therefore, the exercise of authority cannot be based on personal preference but must consistently be guided by the principle of legality and the principles of good governance (Kurniawan et al., 2024).

This is consistent with the view of Philipus M. Hadjon, who states that authority may be acquired through attribution, delegation, or mandate. In the context of port administration, the authority of the Harbormaster and Port Authority Office (KSOP) constitutes attributed authority derived directly from laws and regulations (Ardyantara et al., 2020).

From the perspective of administrative law, R. Klaim Abdul Djamali explains that administration concerns the relationship between citizens and government, particularly the interaction between public offices and citizens in pursuing public objectives or objectives mandated by law through legally prescribed and binding means (Latifa et al., 2024). Legal certainty constitutes the actualization of law observed by citizens on the basis of fundamental legal principles embodied in written norms, which serve as the foundation for the administration of the state and as a guiding framework (Halilah & Arif, 2021).

According to Gustav Radbruch, legal certainty constitutes one of the principal objectives of law, alongside justice and utility. Legal certainty can be achieved only where legal rules are clear, not susceptible to multiple interpretations, readily comprehensible, and capable of consistent application. Regulations must also possess a sufficient degree of stability and should not be amended without compelling justification, as excessively frequent changes may create uncertainty for both the public and business actors (Kurniawan et al., 2024; Berutu et al., 2023).

4. Discussion

4.1 Regulation of the Use of Special Terminals for Loading and Unloading Goods Belonging to Other Parties

Based on the findings of this study, the regulation governing the use of Special Terminals (*Tersus*) for the loading and unloading of goods belonging to other parties continues to present various normative and implementation-related issues. The principal issue concerns the lack of clarity regarding the limits on the use of *Tersus* facilities for general cargo, which, in principle, does not fall within the category of specific goods contemplated under the applicable laws and regulations. This condition has given rise to differing interpretations among holders of *Tersus* authorizations, service users, and government authorities responsible for supervision. Consequently, conflicts of interest may arise concerning who is entitled to use such facilities, how authorization should be granted, and the extent of the legal responsibility of each party in the event of a violation.

From a normative perspective, a Special Terminal (*Tersus*) is a terminal used for the loading and unloading of specific goods, such as mining products, oil and gas, or other strategic goods. *Tersus* facilities are generally subject to specific regulatory requirements that restrict the types of goods handled and the purposes for which the facilities may be used. A Special Terminal is located outside the Port Working Area (*Daerah Lingkungan Kerja*, DLKr) and the Port Interest Area (*Daerah Lingkungan Kepentingan*, DLKp) and forms part of a port used to support particular activities. In principle, a Special Terminal is intended to support the principal business activities of the terminal owner and is not designated for serving the public interest. This regulatory framework is further reinforced by Government Regulation of the Republic of Indonesia Number 31 of 2021 concerning the Administration of the Shipping Sector, in conjunction with Government Regulation of the Republic of Indonesia Number 64 of 2015 concerning the Amendment to Government Regulation Number 61 of 2009 concerning Port Affairs, and is further regulated under Minister of Transportation Regulation of the Republic of Indonesia Number 52 of 2021 concerning Special Terminals and Terminals for Own Interests.

From a normative perspective, this regulatory framework demonstrates that the use of Special Terminals is restricted to the interests of authorization holders. Accordingly, the use of a Special Terminal by other parties essentially constitutes an exception that may be permitted only on the basis of approval and through mechanisms prescribed by applicable laws and regulations. However, the findings of this study indicate that the existing regulatory framework does not provide detailed objective parameters for determining whether authorization for the use of a Special Terminal by other parties should be granted. This regulatory gap leaves considerable scope for interpretation by administrative officials in determining

whether an application should be approved or rejected.

When analyzed through Hans Kelsen's theory of legal positivism, this condition indicates that the primary norm establishes restrictions on the use of Special Terminals but has not been accompanied by sufficiently detailed secondary norms governing the mechanisms for its implementation. In a well-structured legal system, implementing norms should elaborate upon higher-level norms in a manner that avoids uncertainty in their application. Where adequate implementing norms are lacking, the objective of law in providing legal certainty becomes difficult to achieve.

The use of Special Terminals (*Tersus*) by other parties cannot be separated from the factual condition of port infrastructure in Indonesia, which remains unevenly developed. A number of public ports continue to face limitations in berth capacity, navigational channel depth, and facilities for handling heavy cargo. Under such circumstances, Special Terminals often provide an effective alternative for ensuring the efficient flow of national logistics, particularly in the mining, energy, and strategic industrial sectors ([Gultom, 2017](#); [Royani et al., 2022](#)).

From an economic perspective, the use of Special Terminals by other parties can improve logistics cost efficiency, accelerate the distribution of goods, and reduce congestion at public ports. From the perspective of administrative law, however, such practices must remain grounded in lawful authority and clear authorization procedures. Where the use of a Special Terminal lacks an adequate legal basis, it may not only give rise to administrative disputes but also undermine business actors' confidence in the national authorization system ([Kartini, Kelana, Santoso, Marpaung, et al., 2022](#)).

The legal issues that arise concern not only the legality of using Special Terminals (*Tersus*) but also the effectiveness of the applicable authorization system. The findings of this study indicate that the authorization process involves multiple government agencies with different areas of authority, resulting in lengthy procedures that may hinder certainty regarding the timeframe for carrying out business activities. This situation demonstrates that applicable Indonesian law has not yet fully accommodated operational needs in practice. From the perspective of the theory of legal certainty, such circumstances may create uncertainty for business actors because the successful acquisition of authorization depends substantially on the administrative assessment of each agency involved.

In practice, the use of *Tersus* facilities provides a solution to the limitations of public ports, particularly with respect to berth load-bearing capacity and the availability of loading and unloading facilities for heavy cargo. This is illustrated by the case study, which demonstrates that public ports are unable to accommodate

certain technical requirements. Under such circumstances, the use of *Tersus* facilities through a cooperative arrangement with the relevant *Tersus* authorization holder is considered more effective and efficient (Wardoyo et al., 2020; Boyke, 2019).

From the perspective of the theory of legal certainty, this situation demonstrates a gap between legal norms and the practice of government administration. Although the regulatory framework provides a legal basis for the use of Special Terminals (*Tersus*) under certain circumstances, the absence of uniform operational standards prevents business actors from predicting with certainty whether an application for authorization will be approved or rejected. Consequently, legal certainty, which should constitute one of the objectives underlying the establishment of applicable Indonesian law, has not yet been fully achieved, potentially creating uncertainty for business actors (Abdillah et al., 2025).

Conversely, the practice of using Special Terminals demonstrates a genuine need among business actors for flexibility in government policy. In various cases, the use of Special Terminals provides a solution to the limited capacity of public ports, particularly for the loading and unloading of goods with specific characteristics that require particular technical facilities. Accordingly, the principal challenge for the government is not merely to preserve legal certainty by imposing limitations on the use of Special Terminals, but also to ensure that the regulatory framework can proportionately accommodate the needs of national economic development. Achieving an appropriate balance among legal certainty, utility, and the effectiveness of public services therefore lies at the core of the regulatory issues concerning the use of Special Terminals for the loading and unloading of goods belonging to other parties.

4.2 Authorization Mechanism for the Use of Special Terminals for Loading and Unloading by Other Parties

The authorization mechanism governing the use of Special Terminals (*Tersus*) by other parties constitutes an important aspect of port administration in Indonesia. Such an authorization mechanism serves not only as an administrative instrument for controlling the use of port facilities but also as a means of implementing the principle of legality in administrative law. Through this mechanism, the government is vested with the authority to ensure that all loading and unloading activities conducted at Special Terminals remain consistent with the purposes for which such terminals were established and do not contravene applicable laws and regulations (Kartini, Kelana, Santoso, Marpaung, et al., 2022).

The Harbormaster and Port Authority Office (KSOP) is the government authority responsible for regulating, controlling, and supervising port activities. In the context of the use of Special Terminals (*Tersus*) by other parties, the KSOP serves

as the authority responsible for evaluating applications for the use of such facilities. As the government authority entrusted with regulatory, supervisory, and control functions in port administration, the KSOP occupies a strategic position as the government's representative in ensuring navigational safety while supervising port operations in accordance with Law Number 17 of 2008 concerning Shipping and its implementing regulations. In relation to the use of Special Terminals, the KSOP is responsible for evaluating each application submitted by authorization holders or other parties, taking into account legal and technical considerations, navigational safety, and the interests of public service ([Mursalin et al., 2021](#)).

The findings from an interview with a KSOP official in Sorong, Southwest Papua, indicate that specific parameters must be satisfied before the KSOP can grant authorization for the use of a Special Terminal (*Tersus*) for loading and unloading activities by other parties. The official further explained that such authorization remains subject to approval by the Directorate General of Sea Transportation of the Ministry of Transportation:

"The use of a *Tersus* cannot be based solely on a business agreement between the *Tersus* owner and another party. First, there must be circumstances that normatively justify its use in the public interest, such as the unavailability of a port capable of accommodating the relevant operational needs or limitations in the facilities of the nearest port that impede the smooth flow of goods. Second, there must be an inability on the part of the nearest public port to provide the required services. Such inability must be objectively demonstrated, for example, by limitations in berth capacity, loading and unloading facilities, water depth, or other conditions that prevent adequate port services from being provided. Accordingly, considerations of commercial efficiency alone are insufficient to change the function of a *Tersus* from serving the owner's own interests to serving the public interest. Third, the technical feasibility and the safety and security of navigation must be ensured. *Tersus* facilities must be capable of accommodating the proposed activities without compromising standards of navigational safety and security or the smooth flow of vessel traffic. Fourth, there must be clarity regarding the subject and object of the proposed use."

Fourth, the use of a *Tersus* by third parties must be clearly identifiable on the basis of the legal status of the user, the type and quantity of commodities, the planned vessel calls, the volume of loading and unloading activities, and the cooperation agreement between the *Tersus* operator and the prospective user. Fifth, the use must be subject to time limitations. The use of a *Tersus* in the public interest must not develop into permanent use that would substantively transform its status into that of a public port without undergoing the applicable mechanism for a change of status or authorization. Sixth, supervision and evaluation must be conducted. Once such use has been authorized, the loading and unloading activities do not cease

to be subject to regulatory requirements merely because authorization or approval has been granted. The *Tersus* operator and the user must continue to comply with the applicable system governing port services, navigational safety and security, public order, and supervision by the Port Authority.

On the other hand, certain circumstances may require an immediate response. For example, drilling rig equipment may need to be mobilized and unloaded promptly in order to meet national lifting targets, while nearby public ports may lack adequate facilities to handle such equipment. At the same time, a privately owned *Tersus* located nearby may possess facilities that are sufficiently capable of accommodating the required loading and unloading activities. Such complex circumstances require prompt action; however, following the existing procedures may entail a considerable period of time before authorization is granted for the use of the *Tersus* to carry out the relevant loading and unloading activities.

From the perspective of administrative law, the authority of the Harbormaster and Port Authority Office (KSOP) constitutes attributed authority derived from laws and regulations. In practice, however, the exercise of such authority also involves administrative discretion because not all factual circumstances are regulated in detail by the existing regulatory framework. In addition to its attributed nature, the exercise of this authority must take into account the concept of authority as articulated by Bagir Manan. According to Bagir Manan, authority invariably encompasses both rights and obligations. Rights provide administrative officials with the scope to make decisions within the limits of their authority, whereas obligations require that every such decision be made in accordance with law and be directed toward protecting the interests of the public ([Kurniawan et al., 2024](#)).

Accordingly, the granting of authorization for the use of Special Terminals (*Tersus*) by other parties cannot be regarded as an exercise of unfettered discretion; rather, it must be based on objective, proportionate, and accountable legal considerations. The authorization mechanism continues to face various administrative constraints. One of the principal constraints is the absence of uniform operational standards governing the requirements for the use of Special Terminals by other parties. The applicable regulations provide only a general framework for the possible use of Special Terminals under certain circumstances, without specifying in detail the technical indicators or administrative parameters that should form the basis for granting approval. Consequently, the evaluation process depends substantially on the assessment of the competent officials within each KSOP jurisdiction ([Darsono et al., 2021](#)).

This situation demonstrates that, in the practice of government administration, there is considerable scope for discretion. Discretion constitutes the authority of government officials to make decisions or take actions under certain

circumstances where laws and regulations provide incomplete or unclear rules or do not regulate the matter at all. Under Indonesian administrative law, the exercise of discretion is governed by Law Number 30 of 2014 concerning Government Administration. The Law allows government officials to exercise discretion insofar as it is intended to facilitate government administration, address legal gaps, provide legal certainty, and overcome governmental stagnation in the public interest.

The discretion vested in the Harbormaster and Port Authority Office (KSOP) serves as an important instrument for bridging the gap between legal norms and practical needs. Nevertheless, the exercise of such discretion must remain guided by the applicable regulatory framework. In the context of the use of Special Terminals (*Tersus*), the granting of authorization by the KSOP may be regarded as a form of administrative discretion intended to facilitate strategic national business activities while addressing the limitations of public port infrastructure. However, the absence of uniform technical guidelines may result in disparities in policy implementation across KSOP jurisdictions in Indonesia.

The exercise of discretion may also create legal uncertainty if it is not accompanied by clear guidelines. Differences in interpretation among administrative officials may result in different decisions being made in circumstances that are substantively similar. In one KSOP jurisdiction, an application may be approved because it is considered to serve the national interest, whereas a similar application in another jurisdiction may be rejected on the basis of different administrative considerations. This situation demonstrates that an excessively broad scope for discretion, in the absence of uniform guidelines, may lead to disparities in policy implementation.

The authorization system also continues to require coordination among multiple government agencies. In addition to the Harbormaster and Port Authority Office (KSOP), the authorization process may involve the Directorate General of Sea Transportation, the relevant technical ministries depending on the type of commodity, regional governments, and other agencies responsible for matters relating to navigational safety and environmental protection. On the one hand, such coordination is necessary to ensure that all technical requirements are satisfied. On the other hand, the involvement of numerous institutions prolongs the authorization process and increases the potential for overlapping authority. This situation affects the efficiency of public services and may reduce the competitiveness of the national logistics sector.

Accordingly, more detailed regulations are required concerning the requirements, procedures, technical criteria, and limitations governing the use of Special Terminals (*Tersus*) by other parties. Such regulations are important for reducing reliance on the individual discretion of administrative officials and

enhancing legal certainty for all stakeholders.

Accordingly, this study emphasizes the need to improve the regulatory framework by establishing more detailed provisions governing the use of Special Terminals (*Tersus*) by other parties. At a minimum, such provisions should address administrative requirements, technical indicators, criteria for determining the national interest, time limits for granting authorization, evaluation mechanisms, forms of supervision, and parameters governing the exercise of discretion by administrative officials. A more comprehensive regulatory framework would strengthen legal certainty, enhance consistency in the exercise of KSOP authority, reduce disparities in policy implementation across jurisdictions, and provide better legal protection for both the government and business actors.

Ultimately, such regulatory improvements are expected to achieve an appropriate balance among legal certainty, utility, and the effectiveness of port administration, thereby enabling the use of Special Terminals by other parties to make an optimal contribution to national economic development without disregarding the principles of administrative law.

5. Conclusion

Applicable Indonesian law essentially restricts the use of Special Terminals (*Tersus*) to the terminal owners' own interests, while providing limited scope, through an authorization mechanism, for their use by other parties under certain circumstances. This regulatory framework is established under Law Number 17 of 2008 concerning Shipping, as most recently amended by Law Number 66 of 2024; Government Regulation Number 61 of 2009 concerning Port Affairs; and Minister of Transportation Regulation Number 52 of 2021 concerning Special Terminals and Terminals for Own Interests.

In practice, the authorization mechanism for the use of *Tersus* facilities for general cargo arises as a consequence of limitations in public port infrastructure. However, such use presents various legal challenges, including regulatory uncertainty and the complexity of authorization procedures. The authority of the Harbormaster and Port Authority Office (KSOP) to authorize the use of *Tersus* facilities involves administrative discretion but is not yet supported by sufficiently clear guidelines, thereby potentially resulting in inconsistent implementation and legal uncertainty. Accordingly, the following measures are recommended: 1) The regulatory framework governing the use of *Tersus* facilities should be harmonized and improved to make it more responsive to practical needs; 2) The authorization mechanism should be simplified to improve the efficiency of public services, particularly in relation to National Strategic Projects; 3) The KSOP should be provided with clearer operational guidelines governing the exercise of

administrative discretion; and 4) In addition, the government should increase the capacity of public ports to reduce dependence on *Tersus* facilities.

References

- Abdillah, M. P., Alfiyah, M. F., Hardyanto, Z. B., & Sukoco, M. (2025). Penyelesaian Inharmonis Hukum (Konsep, Tantangan, dan Pendekatan dalam Sistem Peradilan). *Justitiable-Jurnal Hukum*, 7(2), 89–92. <https://doi.org/10.56071/justitiable.v7i2.1163>
- Apriani, D. D., Perdana, F. W., & H. Irwan. (2022). Disharmoni Politik Hukum Pengelolaan Pelabuhan dalam Peraturan Perundang-Undangan Pelayaran. *Jurnal Indonesia Sosial Sains*, 2(10), 2723–6595. <https://doi.org/10.59141/jiss.v2i10.449>
- Ardyantara, D. M., Sukarna, K., Sadono, B., & Arifin, Z. (2020). Reposisi Kewenangan Antar Lembaga Negara Dalam Pengaturan Terkait Pertahanan Keamanan Kemaritiman Nasional. In *Jurnal USM Law Review* (Vol. 3, Issue 2, pp. 404–418). Universitas Semarang. <https://doi.org/10.26623/julr.v3i2.2593>
- Berutu, R. P., Iskandar, H., & Syahputra, D. (2023). Analisis Kepastian Hukum Putusan Mahkamah Konstitusi Nomor: 91/Puu-Xviii/2020 Tentang Uji Formil Undang-Undang Nomor 11 Tahun 2020 Tentang Cipta Kerja Terhadap Undang-Undang Dasar Negara Republik Indonesia Tahun 1945. *Jurnal Ilmiah Mahasiswa Fakultas Hukum Universitas Malikussaleh*, 6(2), 137. <https://doi.org/10.29103/jimfh.v6i2.8391>
- Boyke, C. (2019). Perencanaan Pelabuhan dan Terminal. In *ITS Press* (Vol. 1, Issue August 2015). ITS Press.
- Darsono, N., Syibli, Y. M., & Fajar, M. A. (2021). Peranan Kesyahbandaran dan Otoritas Pelabuhan Khusus Batam Dalam Izin Pembangunan Terminal Khusus. *Jurnal Sains Teknologi Transportasi Maritim*, 3(2), 41–49. <https://doi.org/10.51578/j.sitektransmar.v3i2.40>
- Gultom, E. (2017). Pelabuhan Indonesia sebagai Penyumbang Devisa Negara dalam Perspektif Hukum Bisnis. *Kanun Jurnal Ilmu Hukum*, 19(3), 419–444.
- Guntur Dano Muhammad, A. M. E. (2025). Dampak Transportasi Laut Terhadap Ekonomi Global di Sulawesi Tenggara. *Journal of Innovative and Creativity*, 5(2), 5209–5215.
- Halilah, S., & Arif, F. (2021). Asas Kepastian Hukum Menurut Para Ahli. *Siyasah: Jurnal Hukum Tata Negara*, 4(Desember), 56–65.
- Kartini, S., Kelana, S., Santoso, S., Marpaung, M. H. F., & Khoirunnisa, K. (2022). Tinjauan Pengoperasian Terminal Khusus Pada Wilayah Kerja Tanjung Api-

-
- Api. *Jurnal Ilmiah Manajemen, Ekonomi, & Akuntansi (MEA)*, 6(3), 2201–2209.
<https://doi.org/10.31955/mea.v6i3.2737>
- Kurniawan, I., Marniati, F. S., & Irhamsah, I. (2024). Kepastian Hukum Akta Perjanjian Kerjasama Antara Pemerintah DKI Jakarta Dengan Pihak Pengembang Terkait Pemenuhan Kewajiban Fasilitas Sosial Dan Fasilitas Umum Yang Telah Disetujui Dalam Surat Izin Penunjukan Penggunaan Tanah (SIPPT). In *SENTRI: Jurnal Riset Ilmiah* (Vol. 3, Issue 2, pp. 622–632). LPPM Institut Pendidikan Nusantara Global.
<https://doi.org/10.55681/sentri.v3i2.2301>
- Kusumawardhani, D. L. L. H. N. (2023). Hakekat dan Implementasi Keilmuan Ilmu Hukum. *Jurnal Suara Pengabdian* 45, 2(4), 9–15.
<https://doi.org/https://doi.org/10.56444/pengabdian45.v2i4.1207>
- Latifa, A., Frinaldi, A., & Roberia, R. (2024). Penerapan Hukum Administrasi Negara dalam Membangun Pemerintahan yang Baik. *Polyscopia*, 1(3), 120–126.
<https://doi.org/10.57251/polyscopia.v1i3.1376>
- Manullang, E. F. M. (2022). *Misinterpretasi Ide Gustav Radbruch mengenai Doktrin Filosofis tentang Validitas dalam Pembentukan Undang-Undang*. 5(2), 453–480. <https://doi.org/10.22437/ujh.5.2.453-480>
- Mursalin, M., Heriyanto, M., & Yuliani, F. (2021). Kinerja Pelayanan Publik Pada Kantor Kesyahbandaran Dan Otoritas Pelabuhan (KSOP) Kelas IV Bagansiapiapi. *Pro Patria: Jurnal Pendidikan, Kewarganegaraan, Hukum, Sosial, Dan Politik*, 4(2), 232–249.
<https://doi.org/10.47080/propatria.v4i2.1431>
- Mursidah, I. (2024). Kekuatan Mengikat Putusan Pengadilan sebagai Preseden: Antara Teori dan Praktik. In *YUDHISTIRA : Jurnal Yurisprudensi, Hukum dan Peradilan* (Vol. 2, Issue 3, pp. 27–34). Kalimasada Group.
<https://doi.org/10.59966/yudhistira.v2i3.1669>
- Nurani, N., Apriwandi, & Bagja, H. N. (2025). Sui Generis Geographical Indications: Reforming Indonesia's Intellectual Property Rights for Agricultural Protection. *International Journal of Law and Society*, 4(2), 309–329.
<https://doi.org/https://doi.org/10.59683/ijls.v4i2.344>
- Purwanto, Y. I. (2015, July 29). Dampak Tol Laut Jokowi Bagi Industri Kapal Indonesia. *Kompasiana.Com*, Accessed July 10, 2026.
- Putri, N. T. P., & Aulia, A. (2023). Penerapan Teori Positivisme Hans Kelsen di Indonesia. *Das: Sollen: Jurnal Kajian Kontemporer Hukum Dan Masyarakat*, 2(1), 1–20. <https://doi.org/10.11111/dassollen.xxxxxxx>
- Royani, E., Siahaan, D. H., Syafliansah, H., & Tukimun. (2022). *Hukum kepelabuhan*
-

(Analisis Kebijakan Pemerintah dalam Pelayanan dan Keselamatan Lingkungan) (D. R. Rizqian, Ed.). Amerta Media.

- Sharon, G. (2021). Teori Wewenang Dan Perizinan. *Jounal UMG*, 3(1), 50–63. <https://doi.org/10.30587/justiciabelen.v3i1.2249>
- Sitompul, P. H., Nasution, M., Harianto, D., & Mubarak, R. (2020). Perlindungan Hukum Tentang Pengembangan Pelabuhan Di Daerah Sesuai Undang-Undang tentang Pelayaran Kaitannya dengan Undang-Undang tentang Pemerintahan Daerah. *Arbiter: Jurnal Ilmiah Magister Hukum*, 2(2), 132–147. <https://doi.org/10.31289/arbiter.v2i2.129>
- Suhenriko, M. (2023). Implementasi Teori Hierarki Hans Kelsen Terhadap Perumusan Kebijakan Di Indonesia. *Negara Hukum: Membangun Hukum Untuk Keadilan Dan Kesejahteraan*, 1(2), 64–71.
- Wardoyo, R. D., Supartini, & Dekananwati, V. (2020). Perizinan Pembangunan Tersus (Terminal Khusus) (Studi Kasus CV Bina Lestari Jaya) Di Pangkalpinang Bangka Belitung. *Majalah Ilmiah Bahari Jogja*, 18(2), 101–117. <https://doi.org/10.33489/mibj.v18i2.219>