An aerial photograph of a riverbank. The river is on the left, and the bank is on the right. There is a road on the left side of the bank with a car driving. The bank is covered in green vegetation. The image is darkened for text overlay.

# CHALLENGES AND PROJECTIONS OF INTER-AGENCY COORDINATION MODEL IN LAW ENFORCEMENT PROCESS IN THE NATURAL RESOURCES – ENVIROMENTAL SECTORS

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# CHAPTER I INTRODUCTION

## A. BACKGROUND

Excessive exploitation of natural resources which tends to be carried out without taking the carrying capacity of the environment into account has been proven to cause damage and have a significant impact on the quality of life of human beings and other living creatures. Natural resources are needed by human beings and other living things to continue to grow and live as they are today. Current accelerated consumption of natural resources will soon deplete and destroy the ability of natural resources' to provide basic supplies to human beings and other living creatures. Increases in the exploitation and damage to natural resources from year to year does not give the environment sufficient recovery time. For example, the fires in 2019 burned 1.6 million hectares of forest and land which is nearly a three-fold increase compared to 2018's figure of 529 thousand hectares.<sup>1</sup> In the marine sector, the percentage of damage to coral reefs also increased from 35.15% in 2017 to 36.18% in 2018.<sup>2</sup> Such a large amount of damage was due to, among others, rampant criminal practices in the natural resources and

environment (SDA-LH) sector. The damage caused by overexploitation of natural resources must be addressed immediately, considering its significant contribution to social, economic and ecological losses.

Various efforts to minimize the impact of environmental damage, including by establishing good governance, are deemed inadequate without law enforcement – which can effectively control and prevent the negative excesses of exploitation of SDA-LH.<sup>3</sup> Statistical data on law enforcement on SDA-LH for the last five years (2015 – 2020) shows that not all authorized agencies have optimally implemented law enforcement. Only two ministries, namely the Ministry of Environment and Forestry (KLHK) and the Ministry of Maritime Affairs and Fisheries (KKP), are carrying out significant law enforcement. From 2015 to 2020, there were at least 1,017 cases handled by the Ministry of KLHK, including illegal logging, illegal distribution of wild plants and animals, forest and land fires, encroachment, as well as environmental pollution and destruction.<sup>4</sup> During the same period, the Directorate

1 The Ministry of Environment and Forestry, *Strategic Plan of the Ministry of Environment and Forestry 2020-2024*, (Jakarta: KLHK, t.t), page 13.

2 The Ministry of Marine Affairs and Fisheries, *Priority program of the Directorate General of Marine Spatial Management, the Ministry of Marine Affairs and Fisheries*, <https://kkp.go.id/an-component/media/upload-gambar-pendukung/kkp/DATA%20KKP/2019/Materi%20Konpers%20dan%20Halbil%20MKP/20190703%20PressConf%20Ditjen%20PRL.pdf>

3 The Corruption Eradication Commission (KPK), *Policy Paper on Evaluation of the National Movement to Save Natural Resources 2018 (Kertas Kebijakan Evaluasi Gerakan Nasional Penyelamatan Sumber Daya Alam 2018)*, (Jakarta: The Corruption Eradication Commission, 2018), page 164.

4 Law Enforcement Performance Dashboard, <http://gakkum.menlhk.go.id/kinerja/penegakan>. Accessed on 28 July 2020. The data are updated regularly by the Directorate General of Law Enforcement of KLHK.

General of PSDKP-KKP took 849 cases related to the Marine and Fishery Crimes (TPKP) to the court. A total of 700 cases have been decided with permanent legal force (*inkracht*).<sup>5</sup> As a comparison, we have not found criminal law enforcement efforts against violations of the law in the plantation and mining sectors despite the problems of overlapping allocations, manipulation of licensing information and the exploitation of natural resources which are often found.<sup>6</sup>

However, in-depth studies shows that the law enforcement number has not had a significant impact on the recovery of state and environmental losses. Of the cases that have been publicly revealed, many attempts to enforce law have not been able to apprehend the perpetrators or offenders who enjoyed the proceeds of crimes. In addition, coercive force has not often been employed to ensure that all properties – including assets and instruments of crimes – can be confiscated for the state.<sup>7</sup>

The fact that the main beneficiaries of the proceeds of crimes are untouchable and the absence of confiscation of assets for the state have resulted in SDA-LH crimes continuing without creating a deterrent effect for the perpetrators. In addition, the damaged environment can never be restored to its original status.

Similarly, the results of the evaluation on the National Movement to Save Natural

Resources (GNP-SDA)<sup>8</sup> in 2018 revealed that law enforcement efforts in the SDA-LH sector have not created disincentives for violations and have had no impact on environmental recovery. This is due to inconsistent law enforcement efforts, light sanctions for perpetrators and the lack of execution of sanctions/punishments that ensure the restoration of the environment that has been damaged by law violations. Therefore, in its recommendation, GNP-SDA elaborates that the work of Civil Servant Investigators (PPNS) should immediately be revitalized in order to oversee the management and law enforcement in the SDA-LH sector. Revitalization can be done by increasing the number of personnel, clarifying the authority and command structure, and allocating an adequate budget. Therefore, the synergy and integration of law enforcement in the SDA-LH sector can be performed more optimally.

Synergy and integration are the key factors in law enforcement in the SDA-LH sector, especially since several Ministries/ Institutions (K/L) working in this sector must work together. In the implementation of law enforcement, it is often necessary for a K/L to

5 Fika Nurul Ulya, "Fish Thieves are Getting Massive, KKP Accelerates the Investigation Process of the Perpetrators (Pencuri Ikan Makin Masif, KKP Percepat Proses Penyidikan Pelaku)", *Kompas*, 5 May 2020, <https://money.kompas.com/read/2020/05/05/211800126/pencuri-ikan-makin-masif-kkp-percepat-proses-penyidikan-pelaku>. Accessed on 28 July 2020.

6 Corruption Eradication Commission (KPK), *Op. Cit.*, page 172.

7 *Ibid.*, page 174

8 The National Movement to Save Natural Resources (*Gerakan Nasional Penyelamatan Sumber Daya Alam/GNP SDA*) is an approach adopted by the Prevention Program of KPK in order to improve the natural resources management system which is exploitative and tends to jeopardize the economy of the state and community as citizens holding the people's sovereignty based on the 1945 Constitution. Through the GNP-SDA, KPK is trying to save the natural resources with the main objective to realize the state sovereignty over natural resources and to improve the people's welfare. These are realized by the efforts to prevent corruption in the natural resources sector focusing on four strategic sectors, namely **forestry, mineral and coal mining (*minerba*), oil palm plantations, and marine and fisheries sectors**. In the last five years, the GNP-SDA has conducted many activities, ranging from carrying out management-related study, formulating action plan to performing coordination and supervision over the ministries/ institutions (K/L) and regional governments. All above activities were of course, conducted in accordance with the KPK's authority.

collect some data and information that other K/Ls have already collected. Inter-agency cooperation in the exchange of information, therefore, becomes very important. This was acknowledged by the Director General of Customs and Excise, Heru Pambudi, who reported that in addition to having their own data and information, each K/L has its own mechanism to seek and collect other data. According to him, although each K/L is independent and carries out its activities according to established procedures, all of the work carried out by each K/L is in fact, interconnected. Therefore, the data and information held by a K/L may be the data and information needed by other K/Ls and data/information sharing could assist the other K/Ls to perform their tasks.<sup>9</sup>

One of the inter-agency cooperation models that is deemed quite successful is Task Force 115 – which was formed by virtue of Presidential Regulation No. 115 of 2015. This Task Force plays an important and effective role in optimizing the oversight and law enforcement functions in the fight against illegal, unreported and unregulated fishing (IUU Fishing). Institutionally, Task Force 115 is an integrated agency consisting of 5 (five) K/Ls having law enforcement functions, namely the Ministry of Maritime Affairs and Fisheries (KKP), the National Navy, the National Police, the Attorney General's Office and the Marine Security Agency (Bakamla). Since its inception, this Task Force has been expected to maximize the ability to detect and respond to violations and develop cooperation to

eradicate illegal fishing in Indonesian marine waters. By October 2018, of the 134 cases recorded on the agency's case management recapitulation page, the total income from confiscation of items of evidence of fish caught by IUU Fishing perpetrators reached, approximately, Rp 28,933,160,250 while the potential income from criminal fines reached Rp 24,911,000. 000. In addition, KKP and the Ministry of Finance have reported potential taxes of Rp 209.1 billion due from 187 Taxpayers/ex-foreign fishing vessel owners. Furthermore, from August 2014 to October 2018, 488 vessels of perpetrators were sunk.<sup>10</sup>

Unfortunately, not many models of cooperation have made significant achievements like Task Force 115. This is presumably due to the fact that inter-agency cooperation is not a practice that is naturally carried out by K/L in Indonesia. For example, within the 2012 Reduction of Emissions from Deforestation and Forest Degradation (REDD+) policy framework, the government had managed to coordinate several law enforcement agencies to combat crimes in the natural resources and environmental sector (SDA-LH) through a Memorandum of Understanding. Under the memorandum, 6 (six) K/Ls – the Attorney General's Office, the National Police, the Ministry of Environment, the Ministry of Forestry, the Ministry of Finance, and Center for Financial Transaction Reporting and Analysis (PPATK) – agreed to handle SDA-LH-related crimes by adopting a multidoor approach or multiple legal regimes representing the synergy of various

<sup>9</sup> Delivered in the *Focused Group Discussion (FGD) Activity regarding State Finance and Environmental Damage Recovery Approach to Natural Resource-related crime Perpetrators (Pendekatan Pemulihan Keuangan Negara dan Kerusakan Lingkungan Hidup terhadap Pelaku Kejahatan Sumber Daya Alam)*. Organized by the Corruption Eradication Commission (KPK), Jakarta. 26 February 2020.

<sup>10</sup> The Corruption Eradication Commission (KPK), "Synthesis Notes of Evaluation on the GNP SDA 2018 (Nota Sintesis Evaluasi GNP SDA 2018)", <https://www.kpk.go.id/images/pdf/LITBANG/Nota-Sintesis-Evaluasi-GNP-SDA-KPK-2018-Final.pdf>, most recently accessed on 17 May 2021.

K/Ls, especially investigators (National Police and PPNS) and prosecutors (research and public prosecutors). The Memorandum of Understanding was made because crimes in forest and peatland areas are almost certainly accompanied by criminal acts of money laundering, bribery, payment of gratuities and tax evasion.<sup>11</sup>

The multidoor approach was adopted to minimize potential opportunities for perpetrators to escape more severe sanctions – due to shortage of a single legal regime - to impose sanctions on the main beneficiaries of the proceeds from crimes or financiers, and to maximize the recovery of state assets losses due to a crime. The multidoor approach allows the adoption of “follow the money” and “follow the suspect” models in the investigation and prosecution, meaning that both individual and functional perpetrators (Legal Entities and Corporate Leaders) can be prosecuted. But in practice, the multidoor guides were not implemented in their entirety by all K/Ls involved. Coordination did not work properly, and is having a negative impact on the performance, stability, and ability to adapt the multidoor approach within each K/L. Therefore, it is not surprising that efforts for the SDA-LH criminal law enforcement were taken back by each K/L. In terms of preliminary investigation and investigation, the coordination carried out between investigators of the National Police and Civil Servant Investigators (PPNS) had

not been optimum.<sup>12</sup> This is illustrated by the data on the performance of law enforcement in the SDA-LH sector in the period 2016-2020, during which the Indonesian National Police handled 5,715<sup>13</sup> cases, while the KLHK handled 1,017 cases in the period of 2015-2021. Of the cases handled, only a small number of people adopted a multidoor approach. Instead of capturing functional perpetrators (corporations), most of the perpetrators caught were “only” individual perpetrators (field operators). In the end, the investigators only adopted one legal regime without using the “follow the money” and “follow the suspect” approaches.<sup>14</sup>

In fact, if the cooperation worked properly, the aforementioned issues could be addressed by the coordination and sharing of information and experience. As revealed by Agranoff and Pattakos (1979), coordination can promote the spirit of efficiency in providing public services, reaffirm the role of each party involved, increase the quality and quantity of information and activities as well as minimize the political impact of insufficient funding.<sup>15</sup> Coordination allows the sharing of information, expertise and funding which is complementary to each

11 Kuntoro Mangkusubroto as the Chairperson of Institutional Task Force for the Preparation of REDD+ year 2013 stated that optimized law enforcement against SDA-LH-related Criminal Acts will be realized if cases are handled by adopting multi-legal regime (multi-door) approach. See Memorandum of Understanding & Joint Regulation on Guidelines on Case Handling and Capacity Building of Law Enforcement Apparatus, idea: REDD+ Task Force, page 1.

12 A. W. Situmorang, *Road to Improving Forest Governance in Indonesia: Initial Assessment on the Implementation of the Joint Regulation on the Multi-Door Approach to Address Natural Resources and Environment-Related Crimes in Forest Areas and Peatlands*. (UN-REDD Programme and UNDP Indonesia, 2015), page 37.

13 Pusiknas Bareskrim Polri, “Journal of Crimes and Traffic in Figure of 2018 and Semester I 2019 (Jurnal Kriminalitas dan Lalu Lintas dalam Angka Tahun 2018 dan Semester I 2019)”, National Police of the Republic of Indonesia, [https://pusiknas.polri.go.id/web\\_pusiknas/uploads/bblog/file\\_berkas/JURNAL%20DATA%20PUSIKNAS%20TAHUN%202019.pdf](https://pusiknas.polri.go.id/web_pusiknas/uploads/bblog/file_berkas/JURNAL%20DATA%20PUSIKNAS%20TAHUN%202019.pdf); “Bareskrim Polri Bongkar 455 Kasus Kejahatan Lingkungan Hidup Penyebab Bencana Alam”, <https://nasional.sindonews.com/read/279428/13/bareskrim-polri-bongkar-455-kasus-kejahatan-lingkungan-hidup-penyebab-bencana-alam-1608797559/>, accessed on 15 April 2021.

14 A. W. Situmorang, Op. cit., page 38.

15 Stuart D. Heler, *Addressing Community Problems Through Interagency Collaboration*, (CA: California Cmssn on Peace Officer Standards and Training United States of America, 1992), page 62.

other. However, in practice, inter-agency coordination is quite difficult to perform because each agency has a different culture and work methods, especially in terms of law enforcement which is coercive and carried out in a closed manner in certain phases.

Despite the difficulty, the opportunity to optimize inter-agency coordination remains wide open. At the very least, the experiences of the Task Force (Satgas) for the Eradication of Illegal Fishing (Task Force 115) shows that implementing a successful K/L coordination model in the field can enable law enforcement to work effectively and have a significant positive impact. Their experience shows that the opportunity to optimize coordination among K/Ls in law enforcement remains very high. Based on a number of coordination models, there have been valuable lessons learned which will enable the formulation of a more solid and sustainable model.

## **B. PROBLEM IDENTIFICATION**

Based on the background described previously, the research questions to answer in this study are as follows:

- 1) What are the aspects that encourage and hinder inter-agency coordination in law enforcement in Indonesia?
- 2) What are the aspects that encourage and hinder inter-agency coordination in several countries?
- 3) What are the best options for an inter-agency coordination model that can be adopted in the enforcement of SDA-LH law in Indonesia?

## **C. OBJECTIVES OF THE STUDY**

The objectives of this study are to formulate an alternative model for an optimal and sustainable coordination mechanism among law enforcement agencies in the SDA-LH sector. Based on the existing models of coordination mechanisms, this study will furthermore:

- 1) explore experiences from initiatives for coordination among law enforcement agencies that have been (and are being) taken in Indonesia;
- 2) explore experiences from inter-agency coordination models in several countries; and
- 3) explore more optimum and sustainable alternative options for coordination mechanisms among law enforcement agencies in responding to crimes in the SDA-LH sector.

## **D. METHOD OF THE STUDY**

This study was conducted using qualitative methods with a descriptive approach. Literature studies were carried out by reviewing related laws and regulations and inter-agency coordination concepts, theories or models, as well as best practices from within the country and other countries. More specifically, this study aims to map the weaknesses and strengths in the inter-agency coordination models that have been adopted at home and abroad. The purpose of this study is to understand and explain inter-agency coordination related to law enforcement in the SDA-LH sector, but the coordination mechanism investigated is not limited to that sector. Several other initiatives

for inter-agency coordination mechanism work in the area of law enforcement will be observed to broaden the horizon of knowledge.

In addition to the literature study, to ensure the validity of the data, semi-structured interviews were held with parties who had been involved in the coordination model that existed in Indonesia. The interviews were conducted online with law enforcement agencies (Police Force and Prosecutors) and related Ministries/Institutions (K/L), especially with Civil Servant Investigators (PPNS) in the SDA-LH sector. In addition, the final consultation of the study was conducted by holding a Focus Group Discussion (FGD) with relevant stakeholders in Jakarta.

## E. THEORETICAL FRAMEWORK

### *Varied Inter-Agency Cooperation Models*

In practice, the terminologies 'cooperation', 'coordination,' and 'collaboration' are often misused. Whereas in terms of character, each of these words has different meaning and

implication. In general, it is easier to understand the meaning of 'cooperation' which has a very broad definition referring to activities that are carried out together, as opposed to activities carried out independently or individually. In its concept, 'cooperation' often uses a binding instrument, whereby it includes the leadership element which can force each agency to work together. The word 'coordination' usually describes a more reactive approach in which the parties try to work together in a professional manner when dealing with a particular event. At the same time, 'collaboration' requires a more proactive approach. In 'collaboration', each agency actively plans an anticipated potential situation, shares information, discusses current situation, publishes joint protocols and has clear line of communication.<sup>16</sup>

Based on those three definitions, it appears that 'cooperation' and 'coordination' have relatively close meanings. At the same time, the definition of 'coordination' and 'collaboration' can be clearly distinguished. Frederick M. Kaiser (2011) elaborates those two terminologies in the following table.<sup>17</sup>

16 Matt Gasior, 2007, *Interagency Collaboration in Law Enforcement; Way You Can Work Well With Another Agencies*, <https://www.powerdms.com/blog/interagency-collaboration-law-enforcement/>. Accessed on 2 February 2020.

17 Frederick M. Kaiser, *Interagency Collaborative Arrangements and Activities : Types, Rationales, Considerations*, (Washington, D.C: Congressional Research Service 7-5700, 2011), <https://fas.org/sgp/crs/misc/R41803.pdf>

**Table 1.1 Comparison between the Meaning of ‘Coordination’ and ‘Collaboration’ in Practice**

Coordination	Collaboration
There is an agency as a coordinator (lead agency) or an official who has authority over a process, achievement and staff.	Several agencies that agree on the principle of mutual benefit by working together.
Using the principle of a top-down exercise, allowing the leader to direct participants to collaborate in order to achieve predetermined mutual objectives.	Recognizing a level of volunteerism (initiative) among participants, despite requirement for collaborative agreement among members.
Has the characteristic of formal authority to give instruction, directives and order to other members.	Actual participation of members may vary, based on their own decisions and not on direction from the leadership authority.
There is a hierarchical structure (vertical communication).	There is a balance in terms of roles among members (horizontal communication).

Based on those distinctions, the terminology ‘coordination’ is used in the early chapters to describe inter-agency cooperation because the word is mostly used in practice by law enforcement officials when there is external party involvement. However, in chapter analysis and recommendations, the terminology ‘coordination’ and ‘collaboration’ will be adopted according to their respective definitions to ensure options offered by the coordination or collaboration model are selected.

***The Urgency of Inter-Agency Cooperation***

Basically, the practice of inter-agency cooperation is not a new phenomenon. In simple terms, Cooperation is needed simply because there is an issue whose resolution involves more than one jurisdiction and/or the handling of which requires the authority, expertise, data and information which are available in more than one institution. In line with its development, inter-agency cooperation is urgently needed due to the following:<sup>18</sup>

- a. growth and change in government authority;
- b. political and economic pressure to streamline the size and scope of authority;
- c. increase in number, scope, complexity and total programs which have an inter-agency connection, in relation to the overlapping agency authority; and
- d. the need for restructuring the government’s responses to a crisis.

The aforementioned points show that the high tendency of cross-sectoral problems being exacerbated by the overlapping authority of several agencies has made inter-agency cooperation a necessity.<sup>19</sup> From various horizons of thought, there are 3 (three) general views as to why coordination is functionally needed, namely:<sup>20</sup>

- a. to solve problems caused by various interrelated matters;

18 Frederick M. Kaiser, 2011, *Op. Cit.*, page 15.

19 *Ibid.*, page 11.

20 Rodrigo Serrano, *What Makes Inter-Agency Coordination Work; Insights from the Literature and Two Case Studies*, (Washington DC, Inter-American Development Bank, 2003), page 1.

- b. to increase output of activities with a high level of efficiency (to generate economies of scale); and
- c. to minimize policy fragmentation.

Each state agency or public body is granted the authority and responsibility by laws and regulations which are embodied by each institution into the mission and structure of the agency which then forms culture and determines procedures. The responsibilities, mission, culture and procedures of each institution have formed a different problem solving pattern. Some state agencies are not too rigid in terms of procedures, but some have the opposite style. There are also agencies which highly rely on their organizational structure, notwithstanding that differences in organizational structure and bureaucracy have been the obstacles in communication. These differences have generally become the main challenges in creating coordination.<sup>21</sup>

As with the aforementioned points, Weiss (1987) – as cited by Serrano (2003) – underlines that barriers to inter-agency coordination are rooted in the organizational system:<sup>22</sup>

- a. every organization wants independence and freedom;
- b. every organization has different objectives (have different scale of priorities – author);
- c. it is uneasy to harmonize the work procedures (SOP) of each organization; and

- d. each agency has different expectation and pressure from society.

From an institutional perspective, Van de Ven (1976) states that the involvement of the parties in an inter-agency coordination means that the parties will lose some degrees of freedom to act independently when they should be able to exercise control over each area and work affairs. In addition, the coordinating parties must provide specific resources to maintain relationships with other agencies, while the benefits of such efforts are often unclear and cannot be definitely quantified.<sup>23</sup>

Based on research on coordination practices carried out by the Government Accountability Office (GAO) of the United States Federal Government, it was found that a successful mission of an agency is very important for each institution. Therefore, each institution will take any opportunities that can be obtained into account or can be missed to achieve the agency’s mission.<sup>24</sup> In the context of Indonesia, Rimawan Pradiptyo (2018) states that the payroll of state civil servants (ASN) which has not used a single salary system is one of the factors that discourages the institutionalization of coordination practices.<sup>25</sup> He is of the opinion that this is because each K/L prefers to increase activities to accelerate budget disbursement in order to pursue output, rather

21 Olson, William J., and Gabriel Marcella. *AFFAIRS OF STATE: THE INTERAGENCY AND NATIONAL SECURITY*. Report. Strategic Studies Institute, US Army War College, 2008. 215-54. page 229. [www.jstor.org/stable/resrep11925.8](http://www.jstor.org/stable/resrep11925.8). Accessed on 2 April, 2020.

22 Rodrigo Serrano, *Op. Cit.*, page 2.

23 *Ibid.*

24 GAO/GGS-00-106, "Managing for Results, Barriers to Interagency Coordination"; Report to the Honorable Fred Thompson, Chairman Committee on Governmental Affairs U.S. Senate; March 2000

25 The Corruption Eradication Commission (Komisi Pemberantasan Korupsi), *Policy Paper on Evaluation of the National Movement to Save Natural Resources 2018 (Kertas Kebijakan Evaluasi Gerakan Nasional Penyelamatan Sumber Daya Alam 2018)*, (Jakarta: Komisi Pemberantasan Korupsi, 2018), pages 142-143.

than pursuing outcomes simultaneously. Coordination, which actually encourages the division of work and the sharing of burden, is considered to only reduce activity and budget disbursement – which also means reducing individual income of each ASN.<sup>26</sup> In addition, coordination is considered to potentially cause the leakage of data and information on activities of each agency, therefore it is considered a threat to achieving the mission of each agency.<sup>27</sup>

In their study, Ansell and Gash (2007) state that the condition of each agency prior to the implementation of coordination can be either a driving factor or an inhibiting factor for the success of the coordination.<sup>28</sup> This pre-condition can be categorized into three main variables, namely: (a) inequality of resources and authority among stakeholders; (b) incentives to coordinate; (c) history of conflicts of interest and history of coordination among stakeholders.<sup>29</sup> Therefore, by considering the need for coordination as well as the factors that will hinder the coordination, it is important to map out the benefits or incentives to perceive from all the agencies involved as a pre-condition for developing the coordination framework.

Generally, characteristics of organization are not to coordinate but to focus on its priority of achievement. However, if an organization perceives incentives from coordination, the resistance or even restraint in adopting coordination will be minimized. There are

at least 5 (five) benefits or incentives that each agency should perceive when adopting coordination to accomplish its duties, namely:<sup>30</sup>

- 1) additional financial resources, especially financial and human resources (financial incentives) in which additional resources can be obtained from external funding sources (off-budget) or savings led by cooperation in services (economic of scale);<sup>31</sup>;
- 2) serving as a means for solving urgent and specific problems (problem solving);
- 3) benefits in the form of increasing profile of personnel (career) or agency (increase in budget and achievement of institutional goals) by establishing relations with other agencies (political advantages);
- 4) fostering the spirit of professionalism (professional values) when sharing experience and developing a common interpretation of a need is required by a number of agency's personnel; and
- 5) reducing uncertainty (uncertainty reduction) due to dependence on other parties who have authority.

In practice, there is a possibility that not all agencies involved in designing a coordination framework can perceive those five benefits. For example, one agency is greatly helped in reducing uncertainty by working in coordination, but other agencies do not necessarily feel the benefits. In order to get support from the other agencies, it must be ensured that coordination provides benefits,

26 *Ibid.*

27 GAO/GGS-00-106. *Loc. Cit.*

28 Chriss Ansel dan Alison Gash, *Collaborative Governance in Theory and Practice*, *Journal of Public Administration Research and Theory*, (Oxford University, 2007), page 550.

29 *Ibid.*, pages 550-551

30 Rodrigo Serano, *Op. Cit.*, page 9

31 For example One-Roof Integrated Services (*Pelayanan Terpadu Satu Pintu/PTSP*) practice.

such as financial incentives or strengthened institutional profile.

It is believed that inter-agency coordination can be easily adopted if a clear mission and objectives are set. According to GAO, strategies and directives represent the fundamental items that are needed to build a coordination between state agencies. The strategies and directives include as follows: objectives of the establishment of coordination between

state agencies; responsibilities of each agency in coordination; and the mechanism to be adopted in coordination. These strategies must also describe what activities will be carried out in coordination and what agencies will lead the course of each activity in coordination. This is very important, because the activity leader will organize the course of the activity and will facilitate the decision-making process as well as serving as a mediator in the event of a conflict.<sup>32</sup>

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32 GAO-10-822T, "National Security, Key Challenges and Solutions to Strengthen Interagency Collaboration", June 9, 2010; Statement of John H. Pendleton, Director, Defense Capabilities and Management; Testimony Before the Subcommittee on Oversight and Investigations, Committee on Armed Services, House of Representatives, page.138.

## CHAPTER II

# INTER-AGENCY COORDINATION MODEL IN LAW ENFORCEMENT IN INDONESIA

Indonesia has been developing some inter-agency coordination models for supporting law enforcement purpose including for dealing with crimes in the Natural Resources-Environmental (SDA-LH) sectors. This study addresses a number of models for learning purposes as well as their weaknesses and strengths based on the reality of current coordination between law enforcement agencies. This study is expected to support the relevant coordination model to fight future SDA-LH-related crimes.

### A. THE INFORMATION TECHNOLOGY-BASED INTEGRATED CRIMINAL CASE MANAGEMENT SYSTEM (SPPT-TI)

Criminal case management in Indonesia is substantially carried out not only to resolve violations and crimes, but also to ensure that justice, legal certainty, and benefits as the objectives of law are achieved. Achievement of the objectives of law is due in part to the implementation of duties and functions by the criminal justice sub-system, in this case

the police forces, prosecutor offices, courts and correctional institutions. In general, the division of duties and functions of each criminal justice sub-system is regulated in the Criminal Procedure Code (KUHAP), which focuses on the functional differentiation scheme by each agency. Therefore, the Criminal Procedure Code has laid the foundation for the principles of clarification and modification of functions and authorities of each law enforcement agency.<sup>33</sup>

In practice, the employment of a functional differentiation scheme or sharp separation of the case management phases, including investigation and prosecution, has resulted in several problems. They are, among others, dependency of the public prosecutor on the investigator to complete the case file as the investigator is expected to complete the investigation results based on the KUHP. In the investigation process, the public prosecutor rarely goes directly to the field with the investigator. As a result, in the pre-prosecution phase, the case file may potentially be sent and re-sent due to

<sup>33</sup> Yahya Harahap, Discussion on Issues and Implementation of Criminal Procedure Code (Pembahasan Permasalahan dan Penerapan KUHAP) (Jakarta: Sinar Grafika, 1995), page 47.

an incomplete file being provided by the police investigator and PPNS to the public prosecutor. Overall, the inefficiency in case handling due to lack of communication and the exchange of information and case data also has the potential to harm the rights of the suspect, including overstays in detention of the suspect.

As a result of those problems, there was an idea to build a system to strengthen communication and coordination between law enforcement agencies.<sup>34</sup> The idea was to implement a digital platform to improve the quality of law enforcement known as the Information Technology-Based Integrated Criminal Case Management System (SPPT-TI) which was implemented with the coordination of the Coordinating Ministry for Political, Legal and Security Affairs (Kemenko Polhukam). Based on Presidential Regulation Number 2 of 2015 on the 2015-2019 National Medium-Term Development Plan and Presidential Instruction Number 7 of 2015 on Corruption Prevention and Eradication Actions, a Memorandum of Understanding (MoU) was signed between (1) Coordinating Ministry for Political, Legal and Security Affairs; (2) the Indonesian National Police (Polri); (3) Supreme Court; (4) the Attorney General's Office of the Republic of Indonesia; (5) Ministry of Communication and Information (Kemenkominfo); (6) Ministry of Villages, Development of Disadvantaged Regions, and Transmigration (Kemendes); (7) National Crypto Agency (Lemsaneg); and (7) the National Development Planning Agency (Bappenas).<sup>35</sup> Despite the fact that it

was only formed based on a Memorandum of Understanding, the SPPT-TI can be implemented optimally because it was part of the government's national priorities in the 2015-2019 RPJMN and 2020-2024 RPJMN.

The coordination in the SPPT-TI framework emphasizes the data exchange process in order to integrate the database system in the National Police, the Prosecutor's Office, the Supreme Court and the Directorate General of Correctional Institution. To ensure the uninterrupted process of data exchange, coordination meetings as well as monitoring and evaluation were carried out at least once a year.<sup>36</sup> The Coordinating Ministry for Political, Legal and Security Affairs was appointed as the coordinator to make sure the implementation of the Memorandum of Understanding. On the other hand, budget for the purpose of the implementation of SPPT-TI is included in the Budget Implementation Registration Form (DIPA) of each institution.<sup>37</sup>

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Affairs, National Police of the Republic of Indonesia, the Public Prosecutor's Office, the Ministry of Law and Human Rights, the Ministry of Communication and Informatics, the Ministry of National Development Planning and the State Code Institution No. 1/NK/MA/1/2016; No. NK-01/MENKO/POLHUKAM/01/2016; No. B/6/I/2016; No. KEP-022/A/JA/01/2016; No. M.HH-03.HM.05.02 Tahun 2016; No. 96/M.KOMINFO/HK.03.02/01/2016; No. NKB 01/M.PPN/01/2016; No. PERJ.8/SU/KH.02.01/01/2016 regarding Database System Development for the Information Technology-based Integrated Criminal Case Handling (Memorandum of Understanding among the Supreme Court, the

Coordinating Ministry for Political, Legal and Security Affairs, National Police of the Republic of Indonesia, the Public Prosecutor's Office, the Ministry of Law and Human Rights, the Ministry of Communication and Informatics, the Ministry of National Development Planning and the State Code Institution).

36 Article 4 paragraph (4) Memorandum of Understanding among the Supreme Court, the Coordinating Ministry for Political, Legal and Security Affairs, National Police of the Republic of Indonesia, the Public Prosecutor's Office, the Ministry of Law and Human Rights, the Ministry of Communication and Informatics, the Ministry of National Development Planning and the State Code Institution.

37 Article 6 Memorandum of Understanding among the Supreme Court, the Coordinating Ministry for Political, Legal and Security Affairs, National Police of the Republic of Indonesia, the Public Prosecutor's Office, the Ministry of Law and Human Rights, the Ministry of Communication and Informatics, the Ministry of National Development Planning and the State Code Institution.

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34 The National Development Planning Agency, Study on Information Technology-based Integrated Criminal Judicial System (Kajian Sistem Peradilan Pidana Terpadu berbasis Teknologi Informasi), (Jakarta: BPHN, 2014), page 5.

35 Memorandum of Understanding among the Supreme Court, the Coordinating Ministry for Political, Legal and Security

In its development, the data exchange function was commissioned in 2018 using 19 types of compact versions of documentary data that were ready for the exchange and display in the system. In 2019, the Coordinating Ministry for Political, Legal and Security Affairs through Deputy III for Legal Coordination and Human Rights (HAM) launched the SPPT-TI Dashboard.<sup>38</sup> The features displayed in the SPPT-TI dashboard can be used to see the progress of a case management by the legal enforcement apparatus. The data can also be used to identify bottlenecks in the case management in order to seek the solution. In addition, the quantity and quality of data being exchanged may serve as a reference for measuring the law enforcement apparatus compliance in the criminal case management.

From the coordination point of view, the SPPT-TI has been working well regardless of several cursory notes on the data exchange. Up to December 2019, law enforcement agencies had 509,350 data exchanges through the SPPT-TI dashboard.<sup>39</sup> The data exchanged were in a brief version and the total number of documents exchanged was 18. However, referring to quality, several types of data were of less quality because some remarks columns were not completely filled. For example, in document P16, the Public Prosecutor's Office had not filled in the list of investigating prosecutors or in document P29, many columns of

contents of indictment were not filled in. In addition, the ratio of total data for each document type remained unbalanced. For example, there were 27,281 P21 documents stating that the investigation files had been completely filled, however there were only 7,019 SPDP document.<sup>40</sup> In fact, the SPDP is a document indicating the starting point of a case investigation.<sup>41</sup>

After the launching of the SPPT-TI dashboard in January 2019, the SPPT-TI is continuously to be developed by the expansion of the type of cases included in the system. By 2020, crimes against children, narcotics and corruption were scheduled to be included in the SPPT-TI.

## **B. LAW MAFIA ERADICATION TASK FORCE**

After being re-elected as the President of the Republic of Indonesia for the 2009-2014 period, Susilo Bambang Yudhoyono (SBY) set several priority agenda programs for the first 100 days of his presidency. One of the priority programs was the establishment of an anti law mafia task force as an effort to eradicate the law mafia.<sup>42</sup> The rampant practices of case middleman, bribery, extortion, selling and buying of cases, as well as illegal levies in the case handling by law enforcement agencies made urgent the formation of the

38 "The Coordinating Ministry for Political, Legal and Security Affairs Launches SPPT-TI Dashboard Application (Kemenko Polhukam Luncurkan Aplikasi Dashboard SPPT-TI)", (30 January 2019), from the Coordinating Ministry for Political, Legal and Security Affairs' website, <https://polkam.go.id/kemenko-polhukam-luncurkan-aplikasi-dashboard-sppt-ti/>, accessed on 17 May 2021.

39 Discussion with Center for Statistical Data on Crimes and Information Technology of the Attorney General's Office, 15 June 2020 via zoom.

40 Discussion with Operational Development Bureau and Center for National Criminal Information of National Police of the Republic of Indonesia, 2 July 2020 via zoom application.

41 Ibid.

42 "President Forms Law Mafia Eradication Task Force (Presiden Bentuk Satgas Pemberantasan Mafia Hukum)." Kompas.com, <https://tekno.kompas.com/read/2009/11/23/2030526/presiden.bentuk.satgas.pemberantasan.mafia.hukum>. Accessed on 9 April 2020.

task force.<sup>43</sup>

President SBY then issued Presidential Decree No. 37 of 2009 on the Law Mafia Eradication Task Force, as a legal framework for the establishment of the Law Mafia Eradication Task Force (PMH Task Force). The Presidential Decree at once attracted much attention from the public because it was considered inappropriate from the constitutional point of view. The substantive contents of Presidential Decree No. 37 of 2009 were deemed to be a combination of *beschikking* (decision) and *regeling* (regulation), while a Presidential Decree should ideally be a *beschikking* (decision) only.<sup>44</sup> The Presidential Decree includes the composition of a task force membership comprising representatives of state institutions (Presidential Work Unit for Development Monitoring and Control (Unit Kerja Presiden Bidang Pengawasan dan Pengendalian Pembangunan/UKP4), the President's Special Staff, Public Prosecutor's Office, National Police, and Center for Financial Transaction Reporting and Analysis/PPATK), and representatives of professionals. Kuntoro Mangkusubroto was appointed as the chairperson of the task force.<sup>45</sup>

In order to fight against law mafia, the task force was authorized to build cooperation with other law enforcement agencies, among others the Supreme Court, the Constitutional Court, the Judicial Commission, the National

Police of the Republic of Indonesia, the Attorney General's Office, and the Corruption Eradication Commission. In addition, the task force could cooperate with any supervisory agencies such as the Ombudsman, the State Audit Board, the National Police Commission, the Public Prosecutor Commission, the National Legal Commission and professional organizations such as Professional Association of Advocates, Professional Association of Notaries or Professional Association of Land Deed Official. To ensure the availability of sufficient information in the performance of its duties, the task force was also authorized to conduct studies and research in all Central Government agencies or Regional Government agencies, State-Owned Enterprises/Regional Government-Owned Enterprises (BUMN/BUMD), as well as in all other parties deemed necessary.<sup>46</sup>

In performing its functions, the Task Force put more focus on external coordination with law enforcement agencies, however internal coordination is also made through internal meetings. In addition, the Task Force submits report on its performance progress to the President on a quarterly basis. The budget needed to perform the Task Force's authority is allocated to the DIPA of the Ministry of the State Secretariat.

Since its establishment in December 2009, the Law Mafia Eradication Task Force has received approximately 5.000 case reports. Of the reports, 163 cases have been forwarded to the relevant agencies and only 73 cases were followed up. In other words, the Task Force is less than effective as the percentage of cases handled is only 1.46%

43 "15 Priority Program in the First 100 Days KIB II (15 Program Prioritas 100 Hari Pertama KIB II).", Detik.com, <https://news.detik.com/berita/d-1236134/15-program-prioritas-100-hari-pertama-kib-ii>, Accessed on 9 April 2020.

44 Yudho Winarto. "Petition 28 on Judicial Review of the Establishmen of Law Mafia Eradication Task Force (Petisi 28 Uji Materi Pembentukan Satgas Pemberantasan Mafia Hukum)." Kontan.co.id, 2010, <https://nasional.kontan.co.id/news/petisi-28-uji-materi-pembentukan-satgas-pemberantasan-mafia-hukum-1>. Accessed on 9 April 2020.

45 Diktum five of Presidential Decree No. 37 of 2009 on Law Mafia Eradication Task Force.

46 Diktum four of Presidential Decree No. 37 of 2009 on Law Mafia Eradication Task Force.

of the estimated number of cases received. In performing its function related to the research, the PMH Task Force has conducted intensive research to promote systemic improvement. Its success includes solving cases through Presidential Instruction No. 1 of 2009, prevention in the police, encouraging the tax reform team, protection for reported witnesses and triggering Presidential Instruction no. 9 of 2011 concerning Action Plans for Prevention and Eradication.<sup>47</sup>

In its two-year term of service, several problems were encountered by the PMH Task Force. First, the undefined position of the task force in relation to the management of corruption crimes, including its relationship with other law enforcement agencies had resulted in the lack of institutional achievements of the PMH Task Force. Second, the absence of pro-justice authority in the task force had restricted the scope of the Task Force. Third, the conflict of interest between members of the Task Force and the agency of origin has also been a highlighted issue. In addition, the Task Force's term of office – which was only two years – which was not extended, confirmed that this Task Force did not play a vital role in efforts to eradicate the law mafia.

## **C. CORRUPTOR HUNTING TEAM AND COORDINATING TEAM FOR THE ERADICATION OF CRIMINAL ACT OF CORRUPTION**

The Corruptor Hunting Team was established in 2004, as a manifestation of President Susilo Bambang Yudhoyono and Vice President Jusuf Kalla's 100 day program. This team was formed to strengthen efforts for the management of criminal act of corruption (tipikor) based on Decree of the Coordinating Minister for Political, Legal, and Security Affairs Number: Kep-54/Menko/Polhukam/12/2004 regarding Integrated Team for the Hunting of Convicted and Suspected Corruption Crimes. This team consisted of representatives of the Ministry of Law and Human Rights, the Attorney General's Office, the Ministry of Foreign Affairs and PPATK, and chaired by the Deputy Attorney General.

In general, this team was authorized to collect facts and information related to whereabouts of the convicts and suspects of corruption crimes, whether at home or abroad. Other authorities included recovering the state finance losses in the form of assets from the proceeds of corruption or other assets to be returned as the state assets. This team also played a role performing anticipative and coordinative efforts for the purpose of ensuring the achievement of policy acceleration and accuracy, measures and follow up with the chairperson of each integrated team member from the planning, implementation and legal proceedings up to the execution. Despite not being mentioned specifically, this team would trace suspects/convicts and their assets abroad.

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47 "Budiono Praises the Achievement of the Law Mafia Task Force (Budiono Puji Prestasi Satgas Mafia Hukum).", Beritasatu.com, <https://www.beritasatu.com/nasional/21397/boediono-puji-prestasi-satgas-mafia-hukum>. Accessed on 9 April 2020.

In performing its duties, the hunting team for the criminal act of corruption has adopted a joint investigation scheme to optimize case management. In addition, coordination meetings have been held to monitor the progress of case management, including mapping obstacles and the formulation of measures needed to be undertaken to achieve the desired result.

Since its first set up in 2004 to 2016, there had been five changes in the structure of Corruptor Hunting Team (TPK). The achievements of the team were generally as follows:<sup>48</sup>

- a. Of the targeted 13 corruptors, the team had managed to only capture one corruptor, namely the ex-director of Bank Sertivia, David Nusa Wijaya, who was convicted in the corruption case of the aid funds for BLBI amounted to Rp 1.3 trillion. He was caught in the USA in 2006 with the help of the FBI under the leadership of Basrief Arief;
- b. When Muchtar Arifin served as the chairperson of TPK, he focused his hunting on among others: the ex-President Director of PT Bank Surya, Adrian Kiki Ariawan, ex-President Director of Bank Global, Irawan Salim and the assets of ex-President Director of Bank Mandiri, ECW Neloe in Switzerland. However, the results have not been maximized yet. The team had not managed to capture the targeted corruptors or to seize their assets;
- c. Under the leadership of Darmono, some cases were handled. At that time, there

had been some light in the attempt to extradite ex-President Director of PT Bank Surya, Adrian Kiki Ariawan, who escaped to Australia. The Ministry of Law and Human Rights submitted an extradition request for Adrian Kiki to the Government of Australia on 28 September 2005. On 16 October 2009, the Perth Court (in the State of Western Australia), decided that extradition of Adrian Kiki to Indonesia could be completed. Adrian Kiki rejected the extradition because he had been the citizen of Australia when he was tried in absentia before the Indonesian court. In addition, the Government of Australia was of the opinion that Adrian Kiki should not serve a sentence because the Indonesian prison was full of diseases. Nearly five years later, The High Court agreed that Adrian Kiki could be sent to LP Cipinang. Another success story is in the case of Hendra Rahardja whereby the Supreme Court of New South Wales in its decision ordered the transfer of the relevant person's assets in the amount of USD 398.478.87 to the Government of the Republic of Indonesia. The Government of Australia asked the Directorate General of AHU the Ministry of Law and Human Rights to open a special account to deposit the funds. The Directorate General of AHU then ordered the Public Prosecutor's Office to open such account. On 8 December 2009, the Government of Australia held symbolic handover of the assets to the Integrated Team and the Ministry of Law and Human Rights as the Central Authority.<sup>49</sup>

48 "How's it going the Corruptor Hunting Team (Apa Kabar Tim Pemburu Koruptor)?" Kompas.com. <https://regional.kompas.com/read/2011/07/22/07252047/apa.kabar.tim.pemburu.koruptor?page=all>. Accessed on 13 February 2020.

49 "The Integrated Team for the Hunting of Convicted and Suspected Corruption Crimes (Tim Terpadu Pencari Terpidana dan Tersangka Tindak Pidana Korupsi)." [https://www.kejaksaan.go.id/unit\\_kejaksaan.php?idu=2&sm=3](https://www.kejaksaan.go.id/unit_kejaksaan.php?idu=2&sm=3). Accessed on 13 February 2020.

d. Under the leadership of Andhi Nirwanto, the team had managed to return three fugitives to Indonesia. The Team caught Totok Ary Prabowo, ex-Regent of Temanggung for the period of 2003-2006, who was involved in the corruption case of aid funds for education for board members' children in 2004. This case had caused the state losses in the amount of Rp 2,089 billion. In addition, Hartawan Aluwi, the fugitive in the corruption case of Bank Century that cost the state Rp 3,11 trillion was arrested in Singapore. Not only that, the convict in the Bank Indonesia Liquidity Assistance (Bantuan Likuiditas Bank Indonesia/BLBI) Aid fund Samadikun Hartono, was arrested in China after previously fleeing to Singapore. Samadikun allegedly fled when his case was still in the court of cassation. He is estimated to have cost the state Rp 169 billion.<sup>50</sup>

After Andhi Nirwanto retired, the position of Deputy Attorney General was vacant for 1 year and 10 months, before being filled by Arminsyah in November 2017. As this team was led by a Deputy Attorney General, the vacancy of this position hampered the implementation of the team's duties. Furthermore, the Attorney General's Office also failed to prepare a budget for the operational needs of the TPK in 2018.<sup>51</sup> Whereas, as previously stated, the TPK budget

was allocated to the DIPA of the Attorney General's Office. Additionally, the handling of cases by the TPK, especially for corruptors who escaped abroad, was hampered by the weak bargaining position of Indonesia in Mutual Legal Assistance (MLA) with a number of countries.

After stopping its operation due to a lack of a budget at the Prosecutor's Office, the TPK still had to wait for the Presidential Decree on the extension of the term of service, in order to carry out its duties again in tracing suspects and assets of the proceeds of corruption. However, in addition to the institutional strengthening aspect and budgetary politics, the MLA-related issue needs special attention to ensure the effectiveness of the performance of TPK's duties.

A similar coordination model was also formed a year after the establishment of the TPK with overlapping scope of duties, namely the Coordinating Team for Corruption Crime Eradication (Timtas Tipikor).<sup>52</sup> However, similar to TPK, the implementation of the duties of the team is adjusted to each agency's duties and functions (business as usual) without any special intervention for debottlenecking. In addition, the absence of specific criteria for the cases managed by Timtas had an impact on the effectiveness of performance, considering that there is the KPK institution that has specific duties. The percentage of cases handled by Timtas was also minimal. During 2005 until its dismissal in 2007, Timtas had only handled 72 cases out of a total of 280 reports.<sup>53</sup> Up

50 Saeno. 2016. "Samadikun Hartono is arrested: The Story of the Corruptor Hunting Team (Samadikun Hartono ditangkap: Ini Kisah Tentang Tim Pemburu Koruptor)." *Bisnis.com*. <https://kabar24.bisnis.com/read/20160422/16/540684/samadikun-hartono-ditangkap-ini-kisah-tentang-tim-pemburu-koruptor>. Accessed on 14 Februari 2020

51 Angga Yudha Pratama, "Presidential Regulation Rewards the Corruptor Hunting Team for Arresting Big Fugitives (Perpres Ganjar Tim Pemburu Koruptor Tangkap Buronan Kelas Kakap)." *Merahputih.com*, 2018, <https://merahputih.com/post/read/perpres-ganjar-tim-pemburu-koruptor-tangkap-buronan-kelas-kakap>, accessed on 14 Februari 2020

52 Decree of the President of the Republic of Indonesia No. 11 of 2005 on Coordinating Team for Corruption Crime Eradication.

53 "President Dismisses the Corruption Eradication Team (Presiden Bubarkan Tim Pemberantasan Korupsi)." <https://antikorupsi.org/id/news/presiden-bubarkan-tim->

until June 2007, 7 cases had been decided by the court, 2 cases were in the appeal and cassation phase, 11 cases were in the prosecution phase, 13 cases were in the investigation phase and 39 other cases were in the preliminary investigation phase.<sup>54</sup> Therefore, it is concluded that the existence of the Corruption Crime Eradication Team (Timtas Tipikor) is ineffective in promoting the acceleration of corruption crime case management in Indonesia.

#### **D. TASK FORCE FOR ILLEGAL FISHING ERADICATION (TASK FORCE 115)**

Indonesia is a maritime nation with enormous marine potential, where two-thirds of its territory is the sea (5.8 million km<sup>2</sup>) with the second longest coastline in the world (95,181 km).<sup>55</sup> However, this potential is not being optimized to meet domestic consumption needs. This is reflected in the high level of the crimes of illegal and unrecorded fishery exports. For example, in 2010, the alleged illegal export of frozen albacore tuna from Indonesia to Thailand was only recorded at 1,047,255 kg. In fact, the government of Thailand recorded that the imported quantity of this product reached 3,399,979 kg.<sup>56</sup> Based on this problem coupled with other crimes in the field of

fisheries, the government then formed a special task force to mitigate crimes in the field of fisheries, namely Task Force 115.

The Task Force 115 was formed by virtue of Regulation of the President of the Republic of Indonesia No. 115 of 2015 regarding Task Force for the Illegal Fishing Eradication. The Task Force consists of representatives of the Ministry of Marine Affairs and Fisheries (KKP), Indonesian National Navy (TNI AL), National Police of the Republic of Indonesia, Attorney General's Office of the Republic of Indonesia, Marine Security Agency (Bakamla), Financial and Development Supervisory Board (BPKP), the Ministry of Finance, the Ministry of Foreign Affairs, the Ministry of Transportation, as well as Center for Financial Transaction Reporting and Analysis (PPATK). The organizational structure of the Task Force can be simply illustrated as follows:<sup>57</sup>

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[pemberantasan-korupsi](#). Accessed on 23 February 2020.

54 Ibid.

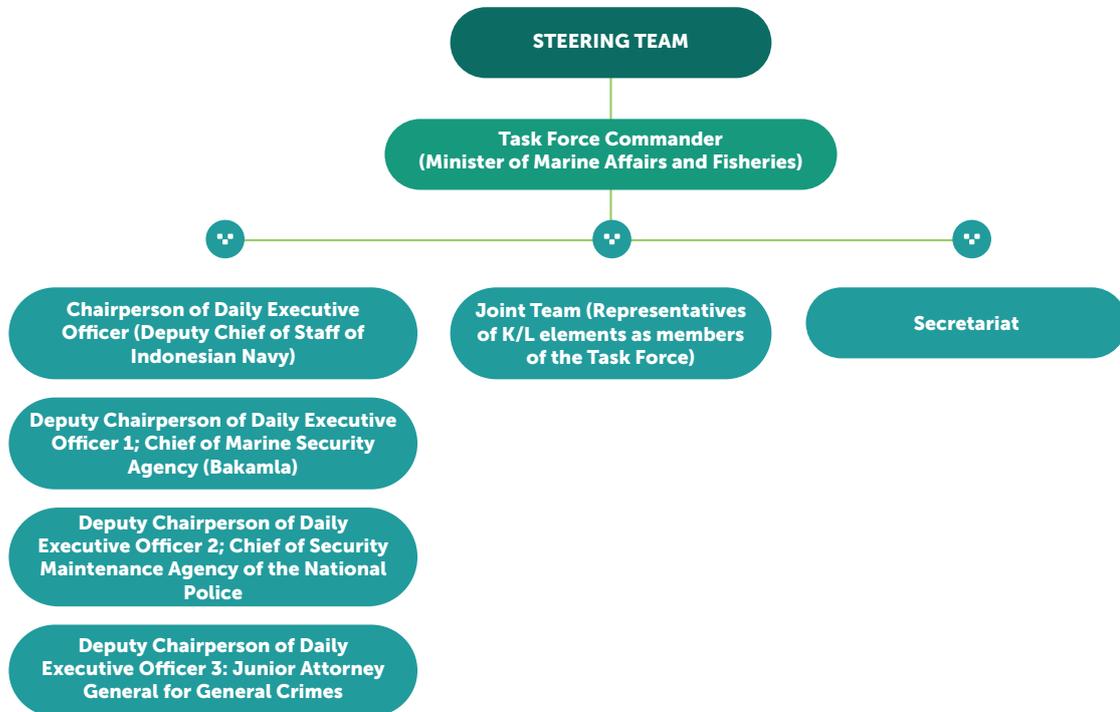
55 Keynote speech the Minister of KP at the National Coordinating Meeting (Rakornas) of Task Force 115 in 2019, <https://kkp.go.id/an-component/media/upload-gambar-pendukung/kkp/DATA%20KKP/2019/Materi%20Rakornas%20Satgas%20115/2019.09.16%20Papan%20MKP%20di%20Rakornas%20SATGAS115.pdf>

56 Ibid.

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57 Articles 4 and 5 of Presidential Regulation No. 115 of 2015 on Illegal Fishing Eradication Task Force. The Steering team consists of the Coordinating Minister for Political, Legal and Security Affairs, the Coordinating Minister for Economy, the Coordinating Minister for Human Development and Culture, the Coordinating Minister for Maritime Affairs, the Commander of the Indonesian National Armed Forces, the National Police of the Republic of Indonesia, and the Attorney General of the Republic of Indonesia

**Image 2.1. Command Structure of Task Force 115**



In its development, the Minister of KP as the Commander of the Task Force issued Decree of the Minister (Ministerial Decree) of Marine Affairs and Fisheries No. 3A of 2015 to further elaborate the scope of authority and organizational structure of the joint team. The KP Ministerial Decree expanded the Task Force authority, among others to the management of catch fishery business licensing which includes Fishery Business Permit (Surat Izin Usaha Perikanan/SIUP), Fishing License (Surat Izin Penangkapan Ikan/SIPI), and Fish Carrier License (Surat Izin Kapal Pengangkut Ikan/SIKPI), as well as to calculate the state losses/state economic losses due to the irregularities within the SIPI and SIKPI. Other authorities included the monitoring of the moratorium of catch fishery business licensing, as well as the collection of information and data to be forwarded to the criminal law enforcement

agencies. To improve the oversight efforts, the Task Force built Command and Control Center (Pusat Komando dan Pengendalian/ Puskodal) Task Force 115 by using the combined technologies of the fishing vessel surveillance satellite and radar owned by the National Navy, the Ministry of Marine Affairs and Fisheries, Water Police and Marine Security Agency (Bakamla).

Further elaboration of the organizational structure of the joint team is provided for in Decree of the Minister of KP No. 3A of 2015. As the authority exercised is more operational in nature, the joint team members comprise representatives of each element of a more technical position. This coordination pattern has made duty implementation easier as the responsible party who is in-charge of the management of fishery crime case in each agency can be identified immediately.

**Table 2.1. Composition of Agency’s Representatives in the Structure of Task Force 115**

No.	Institution	Representatives
1.	The Ministry of Marine Affairs and Fisheries	<ul style="list-style-type: none"> <li>Inspector General of The Ministry of Marine Affairs and Fisheries (KKP)</li> <li>Director of Fishing Vessels and Fishing Equipment</li> <li>Inspector V</li> </ul>
2.	The Indonesian Navy	<ul style="list-style-type: none"> <li>Primary Naval Base IX Commander</li> <li>Law Development Office</li> </ul>
3.	The National Police	<ul style="list-style-type: none"> <li>Middle-Level Policy Analyst (Anjak Madya) of the Directorate of Water Police</li> <li>Deputy Director of Certain Crimes</li> </ul>
4.	The Attorney General’s Office	<ul style="list-style-type: none"> <li>Chairperson of Natural Resources Task Force</li> </ul>
5.	PPATK	<ul style="list-style-type: none"> <li>Director of Cooperation and Public Relations</li> </ul>
6.	The Ministry of Finance	<ul style="list-style-type: none"> <li>Director of Intelligence and Investigation of the Directorate General of Taxes</li> <li>Director of Repression and Investigation of the Directorate General of Customs and Excise</li> </ul>
7.	The Ministry of Foreign Affairs	<ul style="list-style-type: none"> <li>Director of Security and Territorial Political Agreement</li> </ul>
8.	The Ministry of Transportation	<ul style="list-style-type: none"> <li>Director of Shipping and Seamanship</li> <li>Chairperson of Center for Sea Transportation Research and Development</li> </ul>
9.	BPKP	<ul style="list-style-type: none"> <li>Director of Production and Natural Resources Oversight</li> </ul>
10.	National Committee for Governance Policy (KNKG)	<ul style="list-style-type: none"> <li>Dr. Yunus Husein, S.H., LL.M.</li> </ul>
11.	Professionals	<ul style="list-style-type: none"> <li>Dr. Mas Achmad Santosa, SH., LL.M.</li> <li>Dr. Sunoto, M.E.S</li> </ul>

The results of authority exercise by the joint team are then reported to the Task Force Commander. The Task Force Commander reports the joint team’s performance quarterly or at any time if necessary to the President. The performance of the task force is then generally evaluated by the steering ministry. From the budget side, the operational needs of this task force are allocated to the DIPA of the Ministry of Maritime Affairs and Fisheries (KKP).

Coordination in the context of eradicating illegal fishing is also strengthened by the signing of a Memorandum of Understanding between the KKP and other agencies. For

example, the signing of the MOU between the KKP and the Ministry of Defense including the scope of cooperation such as the assistance in the strengthening of facilities and infrastructure for Marine and Fishery Resources (SDKP) surveillance, exchange of information data, support for policy and implementation of Human Resources capacity building, as well as support for strategic policy on the state defense.<sup>58</sup>

<sup>58</sup> "Defense Ministry and KKP Agree to Strengthen Cooperation on Illegal Fishing Eradication (Kemhan dan KKP Sepakat Tingkatkan Kerja sama Berantas Illegal Fishing)." <https://www.kemhan.go.id/2016/05/10/kemhan-kkp-sepakat-tingkatkan-kerja-sama-berantas-illegal-fishing.html>. Accessed on 17 February 2020.

Bakamla has also signed a Memorandum of Understanding with KKP, followed by a Cooperation Agreement (PKS) which is still in the drafting process. The substance of PKS is joint operations for the security and surveillance of marine and fishery resources, coordinating the marine and fishery crimes handling, the use of dock, data and information exchange, capacity building of personnel in the field of security and surveillance of SDKP, as well as increasing in knowledge and development of marine and fishery communities.<sup>59</sup>

The success of the Task Force 115 coordination pattern in the enforcement of laws against fishery crime was reflected in various performance achievements, including the sinking of 516 vessels catching fish illegally in Indonesian waters up until September 2019. The effectiveness of law enforcement had an impact on the skyrocketing production of tuna, mackerel tuna, and skipjack tuna fish that in 2019 was ranked number 1 in the world.<sup>60</sup> In addition, the Task Force had succeeded in uncovering human slavery cases with 1,020 victims in Benjina. These various achievements were due in part to the commitment and leadership of the Minister of Marine Affairs and Fisheries as the Task Force Commander, as well as optimum coordination among agencies involved in the task force, particularly in terms of data

and information exchange. The initiative to carry out case management by adopting multidoor approach is also an important part to the tracing of beneficial ownership in fishery crimes. These various achievements indicated the important role of Task Force 115 in law enforcement in the fishery sector.

Currently, Task Force 115 has discontinued its task because its term of services expired in December 31, 2019. Three options on the sustainability of the Task Force were offered, namely merger with the relevant ministries and agencies (K/L), extension of terms of services, or dismissal because they are no longer needed by the government.<sup>61</sup> The Coordinating Ministry for Political, Legal and Security Affairs is currently evaluating the urgency of extending the term of services of the Task Force. The need for the preparation of standard operational procedures to clarify the position of the Task Force in the law enforcement against fishery crimes is also considered important, that the duty implementation pattern does not merely follow business as usual.

## **E. SABER EXTORTION TASK FORCE (SATGAS SABER PUNGLI)**

In the context of public services, extortion (pungli) remains rampant. Data from the Indonesian Ombudsman indicate that during 2016, 51% of maladministration practice

59 "Memorandum of Understanding between Marine Security Agency of the Republic of Indonesia and the Ministry of Marine Affairs and Fisheries (Nota Kesepahaman antara Bakamla RI dan Kementerian Kelautan dan Perikanan)." <https://tni.mil.id/view-171639-nota-kesepahaman-antara-bakamla-ri-dan-kementerian-kelautan-dan-perikanan.html>. Accessed on 17 February 2020.

60 2019. "Marine and Fishery Development Performance up to August 2019 (Kinerja Pembangunan Kelautan dan Perikanan s.d Agustus 2019)." <https://kkp.go.id/an-component/media/upload-gambar-pendukung/kkp/DATA%20KKP/2019/Presscon%20MKP%209%20September%202019.pdf>. Accessed on 20 April 2020.

61 Fika Nurul Ulya. 2020. "Task Force' Term of Service Expires, How is the Achievement of the Illegal Fishing Hunting Team Formed by Susi? (Masa Tugas Satgas 115 Berakhir, Bagaimana Pencapaian Tim Pemburu Pencuri Ikan Bentuk Susi Ini?)" Kompas.com. <https://yogyakarta.kompas.com/read/2020/01/03/131339926/masa-tugas-satgas-115-berakhir-bagaimana-pencapaian-tim-pemburu-pencuri-ikan>. Accessed on 18 February 2020.

was in the form of lengthy delays in the law enforcement sector.<sup>62</sup> The lengthy delay will then become an entry point for either bribery or extortion. In the context of eradication of corruption, extortion by means of illegal levies are seen as the tip of the iceberg that leads to corruption and gratuity.<sup>63</sup> In responding to this issue, the government had included the eradication of extortion as one of the focuses of the first phase of legal reforms in Nawacita I.<sup>64</sup> This commitment was later realized through the establishment of the Task Force for Sweeping Illegal Levies (Satgas Saber Pungli) by virtue of Regulation of the President of the Republic of Indonesia (Perpres) No. 87 of 2016. This task force consists of various law enforcement agencies and other relevant K/Ls, namely the Coordinating Ministry for Political, Legal and Security Affairs, National Police, Attorney General's Office, Ministry of Home Affairs, Ministry of Law and Human Rights, PPAK, Ombudsman, BIN, and Military Police. The Coordinating Minister for Political, Legal and Security Affairs serves as the person in-charge, accompanied by the Police Inspector as the chief executive.

The Presidential Regulation states that this Task Force carries out the intelligence, prevention, prosecution and justice functions. In addition, the Task Force is also authorized to provide recommendations to the heads of

ministries/institutions and heads of regional governments regarding sanctions against perpetrators of illegal levies, as well as the establishment of a Saber Pungli unit in each public service provider agency. The person in-charge of the Task Force then reports the progress of performance on a quarterly basis or at any time to the President. In the context of the budget, the operational needs of the task force are allocated in the DIPA of the Kemenkopohukam.

As described earlier, the formation of the Saber Extortion Task Force (Satgas Saber Pungli) was intended to strengthen efforts to eradicate corruption in Indonesia, especially in the context of petty corruption. Since its formation until 2019, the Task Force had managed to carry out 25,123 arrest operations (OTT), which resulted in 38,064 suspects. Of the OTT amount, Rp 327 billion of evidence had been secured despite the lack of further explanation whether the evidence had been returned to the state.<sup>65</sup>

In its development, there are some marginal notes on the implementation of the eradication of illegal levies by this Task Force. The Ombudsman is of the opinion that the existence of this Task Force has not been effective, because of non-optimal case management and the lack of budget. To date, the Task Force does not have yet standard operational procedures for the case management, especially related to the imposition of sanctions. This has an impact on the follow-up to the case management, where in some cases the Prosecutor refuses

62 Editorial. 2016. "Ombudsman: The National Police and Local Government have the Highest Illegal Levy Cases (Ombudsman: Pungli Tertinggi di Kepolisian dan Pemda)." Tempo.co. <https://nasional.tempo.co/read/812570/ombudsman-pungli-tertinggi-di-kepolisian-dan-pemda/fullview=ok>. Accessed on 20 April 2020.

63 Nov. 2016. "Illegal Levies are just the Tip of the Criminal Iceberg, this is More Dangerous (Pungli Hanya Puncak Gunung Es, Justru ini yang Lebih Berbahaya!)." Hukumonline.com. <https://www.hukumonline.com/berita/baca/t581cb209db475/pungli-hanya-puncak-gunung-es--justru-ini-yang-lebih-bahaya/>. Accessed on 20 April 2020.

64 <https://saberpungli.id/profil/>. Accessed on 20 April 2020.

65 Sachril Agustin Berutu. 2019. "Task Force for Sweeping Illegal Levies Saves Rp 327 Billion through Arrest Hand Operation (OTT) for 3 Years (Satgas Saber Pungli Amankan Rp 327 M Lewat OTT Selama 3 Tahun)." Detik.com. <https://news.detik.com/berita/d-4815249/satgas-saber-pungli-amankan-rp-327-m-lewat-ott-selama-3-tahun>. Accessed on 20 February 2020.

to proceed with cases that have been handled by the police force.<sup>66</sup> From that point, it is understood that the aspect of inter-agency coordination has not been accomplished yet in the framework of the Task Force, which basically aims to bridge the interests of the parties. The commitment of the parties who are members of the Task Force also remains low, and tends to only be shown by the National Police as the chief executive. In addition, the disproportionate budget has also been an obstacle in the implementation of authority by the Task Force.

## **F. LAW ENFORCEMENT IN SDA SECTOR BY MULTIDOOR APPROACH**

Forestry crimes have undeniably caused significant losses of the state. The KPK estimates that state losses will reach USD 9 billion due to weak forest governance in Indonesia.<sup>67</sup> In line with this, Human Rights Watch estimates that the government loses up to USD 2 billion annually due to illegal logging and the weak quality of forest management.<sup>68</sup> In 2013, the Ministry of Forestry released an estimate of state losses of Rp 273 trillion due to 727 illegal plantations and 1,722 illegal mining in seven provinces.<sup>69</sup>

To encourage the environmental-related law enforcement, the Minister of Forestry,

Minister of Environment, Minister of Finance, Attorney General, Head of Center for Financial Transaction Reports and Analysis, and Chief of National Police signed a Memorandum of Understanding on Enhancing Cooperation in Law Enforcement to Support Sustainable Management of Natural Resources in the context of Implementation of REDD+.<sup>70</sup> This Memorandum of Understanding was followed up with the preparation of a Joint Regulation on the Handling of Criminal Case related to Natural Resources and Environment on Forests and Peatlands by adopting a Multidoor Approach.<sup>71</sup> This approach focuses on the employment of multiple legal regimes to trap the perpetrators of environmental destruction and optimize the recovery of state losses due to the crimes committed.

In the context of the coordination mechanism, multidoor initiation can be carried out by each law enforcement agency at the earliest opportunity of the case management phase. This is in line with the mandate of the Attorney General's Circular Letter (SEJA) No. SE-004/A/JA/02/2009 which requires the public prosecutor to work in coordination with investigators since

66 Sakina Rakhma Diah Setiawan. 2018. "Ombudsman considers Performance of Task Force for Sweeping Illegal Levies is ineffective (Ombudsman nilai Kinerja Satgas Saber Pungli Tak Efektif)." Kompas.com. <https://nasional.kompas.com/read/2018/07/20/14094251/ombudsman-nilai-kinerja-satgas-saber-pungli-tak-efektif>. Accessed on 20 February 2020.

67 A. W. Situmorang, Op. Cit., page 7.

68 *Ibid.*

69 *Ibid.*

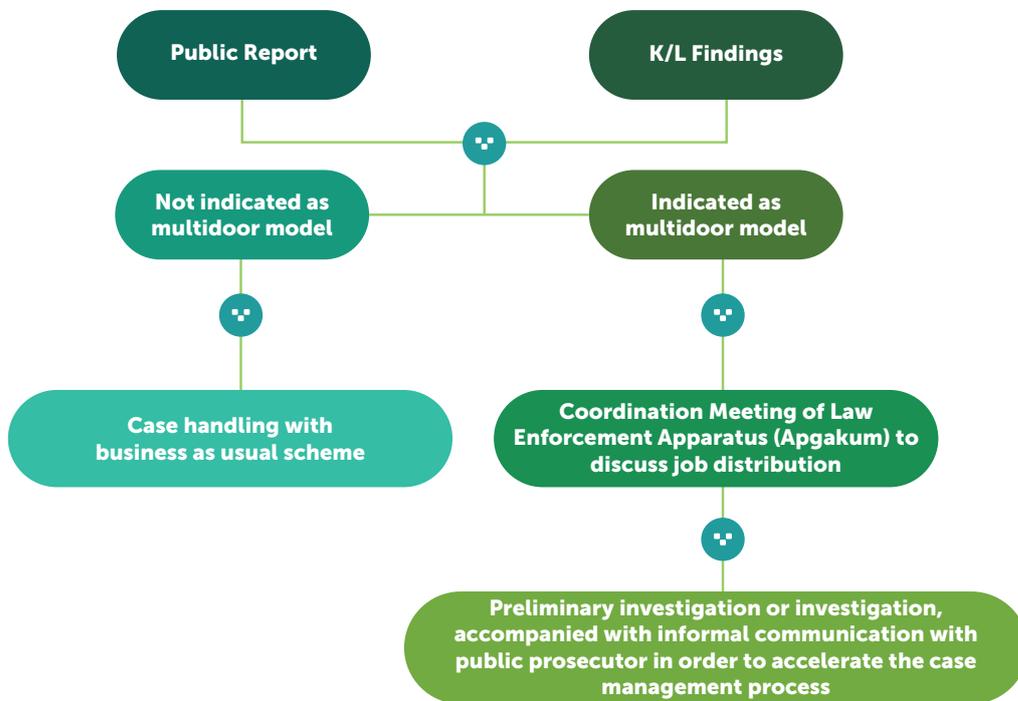
70 Memorandum of Understanding among the among the Minister of Forestry, the Minister of Environment, the Minister of Finance, the Attorney General, the Chairperson of Financial Transaction Reporting and Analysis (PPATK), and the Chief of National Police regarding Improved Law Enforcement-related Cooperation for Supporting Sustainable Natural Resources Management in the context of the implementation of REDD+ No. NK 8/Menhut-II/2012; No. 01 Tahun 2012; No. MOU-11/MK.011/2012; No. 176/A/JA/12/2012; NO. B/50/XII/2012; No. NK-59/1.02/PPATK/12/12

71 Joint Regulation of Junior Attorney General for General Crimes of the Attorney General's Office; Chief of Criminal Investigation Agency of the National Police of the Republic of Indonesia; Director General of Forest Protection and Natural Conservation of the Ministry of Forestry; Deputy for Environmental Law Management of the Ministry of Environment; Director General of Taxes of the Ministry of Finance; Director General of Customs and Excise of the Ministry of Finance; Director General of State Assets of the Ministry of Finance; and Deputy Chairperson of Center for Financial Transaction Reporting and Analysis regarding the Management of Criminal Case related to the Natural Resources and Environment on Forests and Peatlands based on the Multidoor Approach.

the beginning of the issuance of the SPDP through the coordination forum and set forth in the Minutes of coordination. The coordination pattern in the case management

by multidoor approach is carried out in two ways, namely by using vertical coordination and horizontal coordination basis.

Image 2.2. Flow of case management in the SDA-LH sector using multidoor approach



Vertical coordination is held through the Supervisory and Technical Coordination Meeting which is attended by Police investigators, PPNS, and public prosecutors of law enforcement officials who handle cases as well as the chairperson who is able to make policies in the case handling. The supervisory coordination meeting discusses progress of all existing cases handled, including the division of responsibilities and the time period for each case management. The results of the field investigations by police investigators and PPNS are then reported to a coordination meeting at the director level, to decide whether the findings can be escalated into a preliminary investigation or an investigation. In the process of preliminary investigation and investigation, informal meeting between investigators and public prosecutors can be held to speed up the case management process.<sup>72</sup> At the central level, this coordination meeting for law enforcement officers (apgakum) is held either based on the need for the purpose of case management or periodically in a quarterly basis. At the regional level, coordination meeting can be held when necessary for the case management purpose.

Horizontal coordination is carried out in the form of coordination between PPNS and other PPNS and Police investigators, Police internal investigators, Police investigators and K/L, Police investigators/PPNS and public prosecutors, and internal investigators of Prosecutor Office. In general, the coordination is carried out by the following mechanisms:<sup>73</sup>

- 1) Between PPNS and other PPNS:
  - a. If the results of preliminary investigation or analysis of public reports conducted by one of the PPNS indicate any alleged crimes involving the authority of other PPNS, it is necessary to immediately work in coordination with the PPNS Supervisory Coordinator (Korwas) to hold a meeting with the relevant PPNS and Police investigators. The meeting discusses the division of tasks and cooperation pattern. The progress report on the case management will be submitted to the Coordination Meeting of Appakum.
  - b. For PPNS who are granted investigative authority (such as Environmental PPNS and Customs and Excise PPNS), if the case being handled indicates any suspected crimes, related to the authority of other PPNS, immediate coordination with the relevant PPNS must be made. In addition, it is necessary to hold a meeting with the PPNS Korwas, Police investigators, and public prosecutors to discuss the division of tasks and the cooperation pattern. In the case management process, a Coordination Meeting of Appgakum can be initiated. In addition, if there is indicated offense related to money laundering in the case, the PPNS may request technical assistance

<sup>72</sup> This is in line with the provisions set out in SEJA Number SE-004/A/JA/02/2009.

<sup>73</sup> Joint Regulation of Junior Attorney General for General Crimes of the Attorney General's Office; Chief of Criminal

Investigation Agency of the National Police of the Republic of Indonesia; Director General of Forest Protection and Natural Conservation of the Ministry of Forestry; Deputy for Environmental Law Management of the Ministry of Environment; Director General of Taxes of the Ministry of Finance; Director General of Customs and Excise of the Ministry of Finance; Director General of State Assets of the Ministry of Finance; and Deputy Chairperson of Center for Financial Transaction Reporting and Analysis regarding the Management of Criminal Case related to the Natural Resources and Environment on Forests and Peatlands based on the Multidoor Approach.

and information from PPAK.<sup>74</sup>

- c. To obtain evidence of other alleged criminal acts, the Tax PPNS may share data with other investigators related to the books or transaction records owned by the suspect/Taxpayer.
- 2) Police Internal Coordination, especially for cases involving more than one section of Police investigators, is carried out by (if necessary) forming a Joint Team consisting of the related elements.
  - 3) Coordination between Police Investigators and K/L
    - a. If there is an indication of a tax crimes in an environmental crimes that is being handled by Polri investigators, the investigation of a tax crimes is submitted to the Tax PPNS. The similar procedures apply to the customs crimes, which will be coordinated and submitted to the Customs and Excise PPNS.
    - b. K/L provide assistance to Police investigators/PPNS in the form of investigator personnel, experts, and other facilities such as technical laboratories and technical data.
  - 4) Coordination between Police investigators/PPNS and public prosecutors:

After receiving the SPDP from the Investigator, the Research Prosecutor (Prosecutor P-16) will actively work in coordination with the relevant parties

to ensure that the case is handled by adopting the multidoor approach. If there is indication that the case is related to other ongoing criminal acts, the Prosecutor P-16 must provide investigators with instructions to cooperate in the investigation. Furthermore, the appointed public prosecutor must communicate intensively and provides technical instructions on formal and material requirements to facilitate the preparation of indictments and substantiation before the court.

#### 5) Internal Coordination of Prosecutor Office

The Prosecutor Office may establish a Joint Team consisting of elements of the public prosecutors, if it is related to the handling of SDA-LH-related cases by adopting multidoor approach. In addition, it is necessary to prepare an Implementation Guidelines/Technical Instructions to facilitate the coordination of case management.

Although it has been formed for eight years, the management of SDA-LH-related cases through this multidoor approach has not been implemented optimally. Up to 2017, there were three criminal cases in the SDA-LH sector were being handled using a multidoor

<sup>74</sup> PPNS of Customs and Excise can especially ask for information directly as referred to in the provisions of Article 2 of Law on TPPU.

approach.<sup>75</sup> The lack of implementation of this approach by PPNS is also caused by non-accommodated case handling using a multidoor approach as an indicator of PPNS performance. Referring to the Strategic Plan of the Directorate General of Law Enforcement of KLHK 2015-2019, one of the performance indicators for the criminal law enforcement is the case management up to P-21<sup>76</sup>. At the same time, the successful case management using the multidoor approach is measured based on the number of facilitations in the management of environmental and forestry-related cases<sup>77</sup>. This indicator does not fully reflect the multidoor spirit, which encourages investigators and public prosecutors to be able to see indicated relationship between the SDA-LH crimes and other criminal acts.

The multidoor approach employed does not also have a definite mechanism yet due to the absence of more technical regulations in each agency. The secretariat which has not been formed permanently is also suspected to be an inhibiting factor in the implementation of this policy.<sup>78</sup> The lack of budget allocation also remains a problem, where the complexity of case handling and coordination will have an impact on the

high budget required.<sup>79</sup> So far, the budgetary politics of each agency involved has not reflected full support for the implementation of case handling with a multidoor approach.

## **G. COOPERATION BETWEEN KPK AND PPAK IN THE TPPU PREVENTION AND ERADICATION**

Cooperation between KPK and PPAK represents a cooperation in the context of prevention and eradication of criminal act of money laundering (TPPU), as well as corruption crime eradication (tipikor). The scope of this cooperation is as follows:

- a. information exchange;
- b. formulation of legal products;
- c. intercept or tapping;
- d. management of corruption crime and money laundering crime cases;
- e. research and dissemination;
- f. education and training; and
- g. information technology system development.

This coordination pattern employed the liaison officer/LO system to bridge inter-agency communication. KPK was represented by the Directorate of Inter-Commission and Inter-Agency Network Development, while PPAK was represented by the Directorate of Cooperation and Public Relations. In terms of information exchange, 2 (two) types of

75 Hani Afrita Murti. "Strengthening Law Enforcement Policy of Multidoor approach as the Deterrent Effect to Curb Corruption Case Rate, Case Study: Implementation of Multidoor Approach in the Ministry of Environment and Forestry (Penguatan Kebijakan Penegakan Hukum *Multidoor* sebagai Deterrent Effect untuk Menekan Laju Kasus Korupsi, Studi Kasus: penerapan Pendekatan *Multidoor* di Kementerian Lingkungan Hidup dan Kehutanan)." International Seminar Proceedings: Reconstructing Public Administration Reform to Build World Class Government. 2017. page 440.

76 Strategic Plan of the Directorate General of Law Enforcement of the Ministry of Environment and Forestry 2015-2019. Attachment A page 11.

77 *Ibid.*, page 12.

78 Hani Afrita Murti, *Loc. Cit.*

79 *Ibid.*

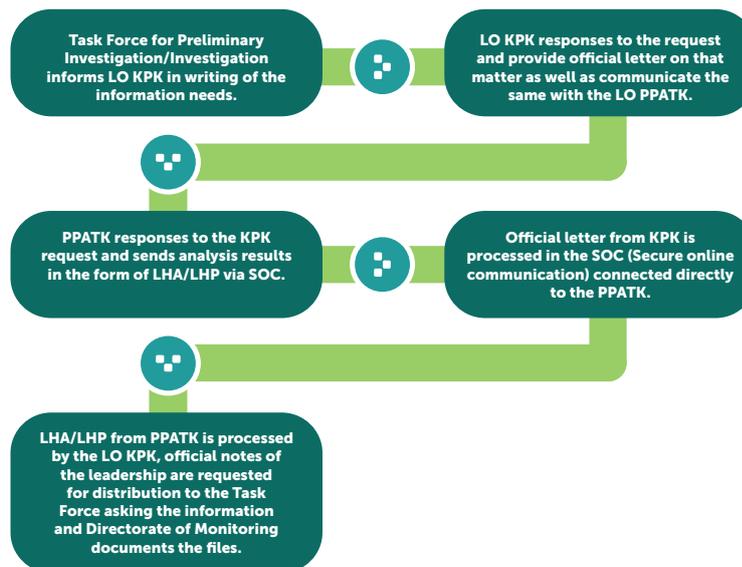
information were exchanged, namely LHA (Analysis Report) and LHP (Audit Report). The information exchange was carried out using the KPK inquiry method and the delivery of results of analysis by PPATK, suspected of containing aspects of corruption and money laundering in a proactive manner. To ensure the confidentiality and security of information, the information exchange is carried out through the Secure Online Communication platform. Broadly speaking,

the flow of information/data on LHA/LHP PPATK is as follows:

A. Inquiry

In this model, data inquiry to PPATK must at least include brief description of the case, articles of laws and regulations that are allegedly violated, requested information/data, relevance of the parties in the case, and Sprinlid/dik number serving as the basis for the case.

Image 2.3. Flow of Data Inquiry by PPATK

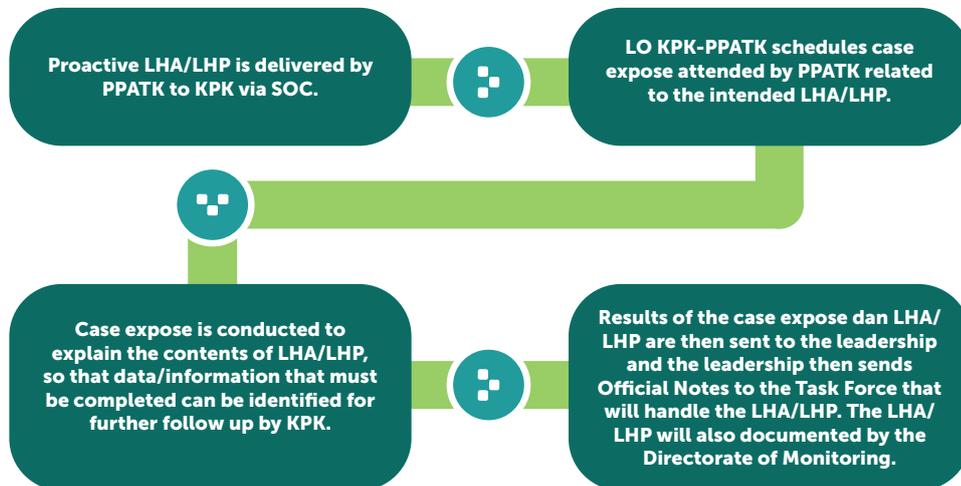


B. Proactive

Despite the fact that information exchange through the LHA/LHP is able to support the case management, especially for the purpose of preliminary investigation/investigation in KPK, the LHA/LHP cannot be used as an instrument of evidence.

On the other hand, the LHA/LHP is a confidential document, therefore KPK as the receiver may only inform/forward the LHA/LHP concerned to the other law enforcement agencies at the written consent of PPATK

**Image 2.4. Flow of Delivery of LHA/LHP PPAT to KPK**



## CHAPTER III

# INTER-AGENCY COORDINATION IN LAW ENFORCEMENT IN SOME COUNTRIES

In general, the inter-agency coordination practice in law enforcement in some countries studied indicated 2 (two) coordination patterns, namely coordination involving direct initiative of the central government (state leadership) and coordination that is initiated by state agencies which realize the importance of coordination in carrying out their tasks. The agency coordination initiated by the central government is formed either by regulations or by the establishment of organization overseeing the inter-agency coordination (coordinating agency).

The agency coordination initiated by the state has generally standard form because it is established based on strict regulations (such as laws). It sets out the vision and mission of coordination as well as clear procedures and framework of coordination. At the same time, coordination initiated by the relevant agencies is generally lenient and flexible, as well as unbinding the agencies. The coordination forum does not have a structure and no coordinator is required to coordinate the works of state agencies as members of the forum. The structures, regulations and coordination procedures is formed based on mutual consent.

### Cooperation Model

Based on the experience of some countries in inter-agency coordination, some models and strategies have been adopted to strengthen coordination between state agencies, including:

#### 1. Joint Investigation Team

This model provides opportunities for agencies with similar issues to work together in the investigation process. In terms of sharing information, this model provides opportunities for the investigation team to learn about the abilities and experiences of investigators from other agencies who have different background and training. By this model, double investigation in the same case can be avoided. Accordingly, this model can increase efficiency there is opportunity for law enforcement officers to focus on other aspects of the investigation. In some cases, this coordination model expands the opportunity for information flow among countries in joint investigation. Several countries that have adopted this coordination model include: Australia, Austria, Azerbaijan, and Brazil.

## 2. Inter-Agency Center of Intelligence

This model is developed to centralize the information gathering and analysis process for a number of agencies. The United States of America has adopted this model.

## 3. Discussion Forum

Coordination of state agencies is initiated through discussion of an issue involving several state agencies. Thanks to the discussions in the forum, each agency realizes that they need to establish cooperation with other state agencies so that they are aware of the need for coordination. Countries that have adopted this model include South Korea and South Africa.

## A. ARGENTINA

Argentina is one of the countries that adopts an inter-state agency coordination strategy in order to deal with an issue involving the authority of many institutions. For example, in the corruption-related issue, the Government of Argentina developed a national strategy that aims to establish coordination between agencies having authority and state agencies working to resolve corruption-related issues. This national strategy is not a formal regulation like legislation, but only a policy developed by the executive power to strengthen coordination between state agencies in the realm of executive power in order to prevent and prosecute corruption-related cases.<sup>80</sup>

The informal character of this national

strategy can be identified from the absence of legal framework for every state agency that is part of the national strategy in terms of sharing information. To date, the national strategy has not set out rules of procedures yet for sharing information among law enforcement, taxation agency, anti-money laundering unit, and anti-terrorism unit. The government of Argentina has also made no attempt to issue regulations related to the aforementioned matter.

However, some of the state agencies established a coordination mechanism bilaterally, for example by entering into collaborative Memorandum of Understanding (MoU) to facilitate the information exchange. The term of the agreement depends on the commitment of each agency. Agencies that entered into bilateral agreements strengthened the monitoring capacity each other by granting other parties access to their respective database. In terms of law enforcement, the Prosecutor's Office established an agency known as the Office of Economic Crime and Money Laundering or '*Procuraduría de Criminalidad Económica y Lavado de Activos*' (PROCELAC) which specializes in managing money laundering cases. PROCELAC employs a multidisciplinary team and technical assistants for complicated cases. PROCELAC is also authorized to lead state agencies to investigate and prosecute criminal suspects.<sup>81</sup>

For the purposes of eradicating corruption, the Government of Argentina does not have a special regulation serving as the

<sup>80</sup> Matthew Jenkins, *Interagency coordination mechanisms: Improving the effectiveness of national anti-corruption efforts*, Transparency International Anti-Corruption Helpdesk Answer, 2019, page 17.

<sup>81</sup> Kevin E. Davis, et. al., "Coordinating the Enforcement of Anti-Corruption Law; South American Experiences." Universidad de los Andes, (December 2014), page 33

basis for establishing an institution granted an authority to perform inter-agency coordination. The government of Argentina had adopted different strategy for each sector on the anti-corruption issue. For a national-scale corruption eradication program, the Government of Argentina established a strategic plan in which state agencies enter into bilateral agreement to exchange their information each other. This is very helpful for fellow agencies to investigate a corruption crimes.

## **B. BRAZIL**

Similar to Argentina, the Government of Brazil has also implemented an inter-agency coordination strategy to deal with an issue that involves the authority of many state agencies. For example, in the environmental and forestry issues, the Government of Brazil has a mixed policy instrument for forest management. The mixed policy includes a regulatory framework (with national environmental policies and forest-related regulations as key elements), law enforcement, regulations on indigenous peoples' territories, protected areas (which are also supported by a fiscal transfer system from the central government to any states and local governments), forest monitoring system and payment for environmental services.<sup>82</sup>

In the Brazilian governmental system, the state and local governments have equal responsibilities to protect the environment and preserve forests as well as to prosecute perpetrators of environmental-related crimes

based on a three-pillar structure, namely the police, prosecutor and court. Under these three pillars, there are various state agencies and organizations that are interrelated with forest law enforcement and connected to the national environmental system, including the administrative bureaucracy and the general security unit.

In order to manage the environmental issues, renewable resources and forestry, the Government of Brazil formed IBAMA (Instituto Brasileiro do Meio Ambiente e dos Recursos Naturais Renováveis), the agency that deals with environmental and renewable resources issues and ICMBIO (Instituto Chico Mendes de Conservação da Biodiversidade), an agency that is authorized to enforce forestry-related laws as part of a broader strategy to support the state's protected conservation areas. These two agencies are connected to the Ministry of Environment. They are responsible for planning and coordinating aspects of the prevention and policy oversight in the field of environment, renewable resources and forestry.<sup>83</sup> Unfortunately, this coordination did not work properly. The coordination initiative did not deal with many environmental-related crimes because people considered that the general criminal law enforcement agency was more trustworthy to manage the environmental and forestry-related cases.

## **C. GREAT BRITAIN**

The UK government established a Joint Anti-Corruption Unit whose task is to ensure the harmony or compatibility of anti-corruption policies. The procedures adopted by the unit

82 Luca Tacconi, Luca Tacconi. *et. al.*, "Law Enforcement and Deforestation: Lessons for Indonesia From Brazil", *Forest Policy and Economics*, Vol. 108, (November 2019), page 3.

83 *Ibid.*, page 4.

include monitoring and ensuring that the anti-corruption activities of each government's department and special agency established to eradicate corruption are carried out in an effective manner. The anti-corruption unit is also mandated to facilitate domestic and international coordination efforts and to promote interconnection between anti-corruption efforts and efforts to fight against corruption in the economic sphere and organized crimes.<sup>84</sup>

The agency has managed to adopt an inter-departmental approach. This is very helpful for the UK Government in eradicating corruption abroad. The coordination model adopted by the UK Government is the coordination carried out by an agency specifically formed for certain issues, in this case, to eradicate corruption in any sector whatsoever. This agency is authorized to oversee the performance of agencies of various sectors.

As with the environmental issue, the United Kingdom has also carried out inter-agency coordination to deal with the issue of serious organized waste-related crimes by establishing a task force aimed at addressing serious and organized waste-related crimes such as the disposal of hazardous waste in both privately owned properties and areas whose status is falsified as a waste holding area for export purpose. This coordinating agency is a task force named Joint Unit for Waste Crimes which was officially inaugurated in January 2020 based on the recommendation of "Independent review into serious and organized crimes in the waste sector" published in November 2018.

This was for the first time in the history of environmental management, the task force was formed to integrate law enforcement agencies, environmental law enforcement agencies and national agencies dealing with criminal acts in a work unit. To overcome the increasing trend of waste-related crime network, this new unit has been authorized to carry out site inspection, detention and prosecution.<sup>85</sup>

This cooperation model has made it easier for participating state agencies to share knowledge and resources to take a more rapid and responsive action when carrying out operations against waste-related crimes and other related illegal activities, such as money laundering and trafficking in persons crimes. This new unit will support the state environmental agency that is in-charge of waste-related crimes in the United Kingdom.

## **D. SWITZERLAND**

One of the coordination practices carried out by the Government of Switzerland in dealing with corruption issues is to establish an inter-departmental working group (Swiss Inter-departmental Working Group). This working group aims to coordinate the efforts of federal office and relevant authorities in the fight against corruption. This working group has a clear structure and leadership. The main function of the Working Group is to strengthen the flow of information exchange between federal office and to give a particular signal of any deviations and irregularities

84 *Ibid.*, page 22.

85 "Clock is Ticking for Waste Criminals as New Taskforce Launched." <https://www.gov.uk/government/news/clock-is-ticking-for-waste-criminals-as-new-taskforce-launched>. Accessed on 27 April 2020.

in the framework of anti-corruption in Switzerland. This working group regularly holds coordination meetings as a forum to share experiences and information, including the progress of internal agency discussions that include the Council of Europe, UN convention against corruption, the OECD Working Group on bribery issues and the G20 Anti-Corruption Working Group.<sup>86</sup>

In the inter-agency coordination practice, the Government of Switzerland forms a committee to coordinate its agencies in performing their tasks. The committee structure consists of chairperson and members of the committee. They have rules and procedures for coordination whereby regular meetings are held by committee members. One of the objectives of its establishment is to serve as a discussion forum and to share data and information related to the issues they are working on. The coordination model with the organizational structure and internal regulations has enabled effective work of coordination. The committee has been working in accordance with the agreed rules.

## **E. SOUTH AFRICA**

The Government of South Africa established a forum whose members came from a coalition encompassing the government, private sector and civil society coalitions. This forum serves as an agency promoting cross-sectoral information exchange efforts. However, since 2014 this forum has no longer active, posing serious challenges in the effort of inter-governmental coordination and

information exchange.

One of the issues of concern to the Government of South Africa is the corruption-related issue. Since the previously established coordination forum was inactive, the Government of South Africa established an Anti-Corruption Committee or Anti-Corruption Inter-Ministerial Committee. The committee is chaired by the Minister of Planning, Monitoring and Evaluation with members consisting of representatives from the Ministry of Law and Correctional Institution, the Ministry of State Security, the National Police, the Ministry of Public Services and Administration, the Ministry of Finance, the Ministry of Government and Customs Cooperation, and the Ministry of Home Affairs and Social Development. In 2015, the Anti-Corruption Committee started to develop a comprehensive anti-corruption strategy. For the purpose of developing this strategy, it was proposed to form an agency leading the coordination and monitoring the national anti-corruption strategy. Later, the leading agency will act as the secretariat of the organization that forms a forum for coordination and cooperation, such as initiating a discussion forum for coordination purpose.<sup>87</sup>

The agencies proposed in the national anti-corruption strategy have structure as follows:<sup>88</sup>

- (1) The Ministry of Monitoring having the duties as political champion against corruption;
- (2) Office having duties to promote and eradicate corruption. The office has

<sup>86</sup> Matthew Jenkins, *Op. Cit.*, page 21.

<sup>87</sup> *Ibid.*, page 20.

<sup>88</sup> *Ibid.*

permanent structure with a permanent chairperson and staff as well as staff who is in-charge of program budget. The office has function as follows:

- Preparing corruption eradication policies;
- Coordinating the implementation of national anti-corruption strategy;
- Monitoring the implementation of national anti-corruption strategy;
- Reporting (domestic and international);
- Evaluation;
- Communication, raising awareness and education;
- Serving as secretariat to support inter-sectoral coordinating agency.

This office works under direct supervision of the supervisory ministry and cooperates with agencies that coordinate anti-corruption agencies and national anti-corruption forum or other inter-sectoral coordinating agencies.

The more formal nature of the committee provides the committee members with an official forum to carry out coordination. First, the committee members developed a strategy for dealing with issues. As this group consists of various agencies working on the same issue, the committee members felt that they need a coordinating head to take a lead in the course of coordination. As set out in the strategy contents, the chairperson of the coordination is selected by the committee. The form of coordination is not necessarily based on regulations, but each agency can take the initiative to establish coordination-related regulations.

## **F. SOUTH KOREA**

In 2012, the South Korean Government organized a discussion forum related to tax administration-related issues. Experts from various communities including policy makers, government officials, reporters, academics and legal professionals attended this forum. A more formal coordination was also carried out by the South Korean Government by establishing the Single Window initiative. This initiative is a collaborative effort of various parties involved in both national and international trading activities. In practice, prior to the Single Window, various challenges were faced by many parties to engage in trading transactions. This is due to different regulations and overlapping regulations in place. In order to minimize inefficient regulations and institutional barriers adversely affecting the trade, the Government of South Korea took the initiative to establish the Single Window.<sup>89</sup>

Regulations in this initiative were not only harmonized but also simplified. The Single Window had also designed an automatic system which provides data and information required and accessible in compliance with the regulations issued by the Single Window. The Single Window concept allows equal opportunity for all stakeholders, either small or large-scale stakeholders of both public and private sectors.

The coordinative efforts taken by the Government of South Korea are versatile and flexible. The government formed a forum with the general object, in this case trading, so that the parties involved were very general

<sup>89</sup> OECD, *Effective Inter-Agency Co-operation in Fighting Tax Crimes and Other Financial Crimes*, 2<sup>nd</sup> ed., (OECD, 2013), page 25.

and fairly massive. In fact, the Single Window initiative taken by the government of Korea is a broad coordination aiming at only minimizing trade barriers caused by regulations and supporting trading transactions by providing data and information needed by the parties.

Despite its versatile and flexible nature, the Single Window still has regulations, especially regulations on the procedures and responsibilities of the parties to share information.

## CHAPTER IV

# ANALYSIS OF INTER-AGENCY COOPERATION ELEMENTS IN LAW ENFORCEMENT IN INDONESIA

This chapter will present the results of a critical reading of the concept of cooperation or coordination concepts which should serve as the basis for each agency to synergize its functions and authorities with the reality of the coordination initiative in the field that has been and is in place. Several elements of coordination, consisting of (1) Leadership; (2) Legal framework; (3) Organizational Structure; (4) Budget; and (5) Coordination mechanism, will be examined one by one to procure good lessons learned and lessons which must be avoided in the formulation of coordination model for the future.

### A. LEADERSHIP

In the process of inter-institutional cooperation, it is natural for various challenges and conflicts to arise due to friction of authority and differences in objectives. Van Poelje revealed that the conflict seems to be a necessity considering that coordination was led by the existence of distributed authority within government agencies, which frequently conflict with

each other in carrying out their duties.<sup>90</sup> A study shows that conflict in an inter-agency coordination has “turf battles” characteristic of actor-rivalry atmosphere, for example in terms of policies, missions and strategies, jurisdiction, resources and funding, status and personal competition between officials. This becomes unavoidable if, from the outset the cooperation is not considered as an effort to achieve the objectives of each member involved and the seeds of rivalry have existed.<sup>91</sup>

In principle, each ministry and state agency is in-charge of certain business in accordance with the duties and authorities imposed by law.<sup>92</sup> In carrying out these duties, one ministry does not necessarily carry out one business. However, one ministry can carry out more than one business in accordance with the tasks assigned by the President.<sup>93</sup> This condition may potentially cause inter-

90 Van Poelje as quoted by Ranggi Ade Febrian, 2015, Analysis of Government-related Coordination Issues (Conceptual and Theoretical Review) (*Analisis Permasalahan Koordinasi Pemerintahan (Tinjauan Konseptual dan Teoritis)*), Journal Wedana, Vol 1 No. 1, page 41.

91 Frederick M. Kaiser, 2011, *Op. Cit.*, page 17.

92 Article 4 paragraph (1) of Law No. 38 of 2008 on State Ministries.

93 Eludication of Law No. 38 of 2008 on State Ministries.

agency conflict due to the high chance of overlapping scope of inter-agency affairs. On the other hand, in order to further elaborate and regulate the implementation of these duties and authorities, each agency is authorized to issue their respective regulation, which often aggravates the overlapping of inter-agency affairs. This is due to the sectoral ego of each agency that put more priority to their respective interests.<sup>94</sup>

For example, PPNS conducts investigation only on issues in any sector that is mandated by law to their agency. However, in practice many sectors are related to the natural resources and environmental (SDA-LH) sector, namely forestry, plantation, mining, oil and gas and marine affairs, which are managed by different ministries. If there is a case, such as the case of damage to national marine park due to oil spills on the sea, there are at least four ministries and state agencies involved, namely the Ministry of Environment and Forestry (KLHK), the Ministry of Marine Affairs and Fisheries (KKP), the Ministry of Energy and Mineral Resources (ESDM) and the Ministry of Transportation. In the preliminary investigation and investigation of the case, PPNS KLHK must possess competence as well as data and information from the KKP, the Ministry of ESDM and the Ministry of Transportation, so that coordination will be a necessity. The role and involvement of other ministries whose authorities intersect in the case becomes significant to optimize the management of the case, so that there must be a common vision in the implementation of

duties. On the other hand, the intersecting authority is prone to resulting in difference in the vision and mission of the agency which adversely affects coordination.<sup>95</sup> Such conditions confirm the urgent need for coordination in the implementation of tasks and authorities between agencies which creates a need related to the existence of leader as a mediator and negotiator in any conflict resolution.<sup>96</sup>

In addition to act as a mediator in the event of a conflict, the leader takes on the role of ensuring a common understanding among members in carrying out their duties.<sup>97</sup> For example, to share a common set of law enforcement perspective – with different characteristics and different objectives, we have to find of course, a connection. One of the examples is related to difference in perception of tax collected from the SDA business sector that does not possess license.<sup>98</sup> Some officials may consider that the SDA business carried out without a permit to be illegal and collecting income taxes on illegal income will be considered as taking advantage of illegal or unlawful act. Consequently, it is difficult for the tax officials to collect taxes from the profits that have actually been gained by the entrepreneur. In fact, in-depth examination shows that the General Provisions of Taxation Law (UU KUP)

94 Antoni Putra, 2019, "Is it necessary for Jokowi to form National Regulatory Body to prevent overlapping regulations? (Jokowi ingin bentuk Badan Regulasi Nasional untuk cegah peraturan tumpang-tindih, perlukah?)" *The Conversation*, <https://theconversation.com/jokowi-ingin-bentuk-badan-regulasi-nasional-untuk-cegah-peraturan-tumpang-tindih-perlukah-120343>, accessed on 14 October 2020.

95 Freeman, Jody and Rossi, Jim, "Improving Coordination of Related Agency Responsibilities", *Vanderbilt Public Law Research Paper No. 13-8*, *Harvard Public Law Working Paper No. 13-12*, (May 30, 2012), Available at SSRN: <https://ssrn.com/abstract=2199990> or <http://dx.doi.org/10.2139/ssrn.2199990>, page 72.

96 Rodrigo Serrano, *What Makes Inter-Agency Coordination Work? Insights from the Literature and Two Case Studies*, (Washington: Social Development Division, 2003), page 12.

97 Duane M. Blackburn, "Interagency Leadership", *Interagency Journal Vol 8, Kansas*, (2017), <https://thesimonscenter.org/wp-content/uploads/2017/08/AJ-8-3-2017-pg69-77.pdf>, page 70.

98 Coordinating Meeting for Improving Law Enforcement Coordination in SDA-LH sector, 14 May 2020.

has the principle of income taxation in a broad sense where the imposition of income tax (PPH) is substantially related to the additional economic capacity of the Taxpayer which is used for consumption purposes or for increasing any individual or entity assets that are subject to income tax, regardless of their origin. Insofar as the conditions stipulated in Article 4 of the Income Tax Law are met, regardless of whether the income is received as part of either legal or illegal income, such assets can be subject to Income Tax.<sup>99</sup>

In addition to acting as a mediator in the event of inter-agency conflict, the roles of the leader in the inter-agency cooperation are generally as follows:<sup>100</sup>

- 1) to hold control of overall coordination and encourage team members to lead each aspect of activities related to his authority. Therefore, each team member is encouraged to have a sense of ownership and responsibility for the team's success; and
- 2) to treat inter-agency cooperation as an initiative of change management. Changes in management method are able to consolidate inter-agency collaboration, including providing examples and experiences that can be implemented by each agency.

As explained in the previous chapter, Kaiser puts leadership as one of the elements

that distinguishes 'coordination' from 'collaboration'. In the context of coordination, there are agencies acting as coordinator and are authorized to give instructions and orders to member agencies. This pattern is commonly found in many law enforcement coordination models in Indonesia, including in the Task Force 115 where the Minister of Marine Affairs and Fisheries played the role as the Commander of the Task Force. Since its establishment in 2015 and until 2019, Susi Pudjiastuti, as the Minister of KP at that time, was considered successful and had an important role in leading the Task Force 115, including her expertise in coordinating cross-sectoral agencies, both civil and military agencies.<sup>101</sup> Not only that, Susi had succeeded in issuing various policy breakthroughs in eradicating illegal fishing, including the sinking of hundreds of illegal fishing boats and management of human slavery case. As a result, there was a significant increase in Indonesian Fisheries PNPB from Rp 276 billion in 2014 to Rp 647 billion in 2018. After the end of Susi Pudjiastuti's term of service in 2019, there had been no firm and binding policy on the future of Task Force 115.<sup>102</sup> In fact, Decision on Assignment of Task Force 115 ended on December 31, 2019 so that the KKP leadership and agency commitment was needed to extend the SK Task Force 115. This furthermore confirmed that the effective leadership was a prerequisite in building a

99 Novariza, et.al., Study on Optimized Recovery of the State Losses by Tax Liability Charges to the Increased Assets from the Proceeds of Corruption Crimes (*Studi Optimalisasi Pengembalian Kerugian Negara Melalui Pembebanan Kewajiban Perpajakan Terhadap Peningkatan Kekayaan Hasil Tindak Pidana Korupsi*), (Jakarta: KPK dan Ditjen Pajak, 2019) page 33.

100 Duane M. Blackburn, "Interagency Leadership", *Interagency Journal Vol 8, Kansas*, (2017) <https://thesimonscenter.org/wp-content/uploads/2017/08/IAJ-8-3-2017-pg69-77.pdf> , page 70.

101 Muhammad Idris, 31 December 2019, "The Fate of Task Force 115 Fish Thief Hunters is Now in Jokowi's Hands (Jaya di Era Susi, Nasib Satgas 115 Pemburu Maling Ikan Kini di Tangan Jokowi)", Kompas.com, <https://money.kompas.com/read/2019/12/31/154000026/jaya-di-era-susi-nasib-satgas-115-pemburu-maling-ikan-kini-di-tangan-jokowi?page=all>, accessed on 15 October 2020.

102 Herdanang Ahmad Fauzan, 2020, The Fate of Task Force 115 formed by Susi Pudjiastuti in the Edhy Prabowo Era (Nasib Satgas 115 Warisan Susi Pudjiastuti di Era Edhy Prabowo), <https://tirto.id/nasib-satgas-115-warisan-susi-pudjiastuti-di-era-edhy-prabowo-ep7s> accessed on 15 October 2020.

good coordination model.<sup>103</sup>

Unlike coordination, collaboration does not recognize the leadership aspect. Relationships among members in collaboration are equal and create a spirit of horizontal cooperation.<sup>104</sup> Essentially, the collaboration model emphasizes the volunteerism of members to participate in a cooperation. An example of successful collaboration model is in the case of Tegal Mas Lampung, whereby the Corruption Eradication Commission (KPK) of the Republic of Indonesia together with a team from the Ministry of Environment and Forestry (KLHK), the Ministry of Maritime Affairs and Fisheries (KKP), the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (KATR/BPN), Polres, Supervisory Coordinator (Korwas) PPNS and the Lampung Regional Government sealed the tourist area of Tegal Mas island for violating the environmental, licensing and taxation-related regulations.

**TEGAL MAS CASE, LAMPUNG<sup>105</sup>**



The Corruption Eradication Commission (KPK) of the Republic of Indonesia together with a team from the Ministry of Environment and Forestry (KLHK), Ministry of Maritime Affairs and Fisheries (KKP), KATR/BPN, Polres, Korwas PPNS and the Lampung Regional Government sealed the pedestrian bridge over the Tegal Mas Island tourist destination on Marita Beach, Tuesday (6/8/2019). The sealing conducted by installing a warning board is intended to terminate the operation of the Sariringgung ferry dock and the tourist area of Tegal Mas Island until all licensing and tax-related obligations are met. In this case, the KPK performs its trigger mechanism function as mandated by the KPK Law, namely to encourage the relevant agency to carry out its duties properly in the fields of licensing, spatial planning and public services. The sign board installed by the joint team reads; Every person is prohibited from doing anything in this area, and this area is under investigation by PPNS for alleged criminal act. In addition to violate various regulations on management license, Tegal Mas Island has ownership-related problem. The 60-hectare island belongs to Babay Chalimi which is a compensation for the collateral from Kohar Wijaya. The management of Tegal Mas Island seems to not taking that into account, despite warnings about permits. The management continues to carry out various activities on the Tegal Mas Island instead of completing the permit.

103 *Ibid.*, page 9.

104 Frederick M. Kaiser, *Op. Cit.*, page 5.

105 "Finally, KPK Confiscates Tegal Mas Tourist Destination (Akhirnya KPK Menyegel Tempat Wisata Tegal Mas)" <https://>

However, the absence of a leadership element as a “coercive” power, has an impact on the various participatory levels of each agency, because not all agencies are willing to actively play their roles in inter-agency cooperation.<sup>106</sup> One of the cooperation models in Indonesia that adopts collaboration is law enforcement with a multi-door approach, which can be seen from the absence of a leader in the inter-agency cooperation model. As a result, different policies of each institutional leader involved in the multidoor model pose a crucial challenge to realize the management of SDA-LH cases with a multi-door approach.

For example, in the management of the Citarum River waste-related case, the Ministry of Environment and Forestry (KLHK) involved the Ministry of ATR/BPN in the investigation of the case. The Ministry of ATR/BPN prioritized the adoption of administrative law so that the case management from the criminal context was discontinued. On the other hand, the Ministry of Environment and Forestry (KLHK) considered that the multi-door approach was adopted for the criminal law enforcement so that it had to meet the criminal element. If Sprindik had been issued, the investigation of the case would be continued regardless of discontinued investigation by other agencies. This condition illustrates that the absence of a leader figure in the multi-door cooperation model makes it difficult to bridge the differences in legal regime that are the authority of each agency. Therefore, the multi-door spirit that emphasizes the implementation of multiple legal regimes does not materialize. This is in line with the findings of the US Government Accountability

Office (GAO), that the absence of leadership causes less participation of the agencies involved and even may likely to lead to failure in inter-agency cooperation.<sup>107</sup>

To strengthen communication in coordination, it is important to take more informal approaches or not to always refer to the formal rules, regardless of the existence of the rules. For example, by visiting related agencies to find out the problems more personally, with the spirit of friendship to open up to each other. This, of course really depends on the personality of the leader or coordinator who must prioritize friendship, be flexible and listen more as well as provide solutions to a problem.<sup>108</sup> It is worth noting that personal closeness can sometimes leave the institutional ego because each party is willing to listen to and give support each other. Basically, the principles of coordination or collaboration must be implemented simultaneously, with reference to certain conditions. Sometimes, one approach is more powerful to discipline coordination, but at a particular time the formal approach must be prioritized.

The below table summarizes the analysis of several cooperation models which have ever been adopted in Indonesia including the elements of leadership.

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[www.teraslampung.com/akhirnya-kpk-menyegel-tempat-wisata-tegal-mas/](http://www.teraslampung.com/akhirnya-kpk-menyegel-tempat-wisata-tegal-mas/), accessed on 6 March 2021.

106 *Ibid.*

107 GAO, “Polar-Orbiting Environmental Satellites: With Costs Increasing and Data Continuity at Risk, Improvements Needed to Tri-agency Decision Making”, Report GAO-09-564, 2019.

108 Interview with the Head of Planning Bureau of the Attorney General’s Office of the Republic of Indonesia, Reda Manthovani via zoom application on 10 June 2020.

**Table 4.1. Elements of Leadership in Cooperation Model**

Type of Coordination	Leadership	Description
Task Force 115	Minister of Marine Affairs and Fisheries as the Task Force Commander	After its establishment in 2015, various achievements of Task Force 115 were deemed due in part to the leadership of Susi Pudjiastuti as the Minister of KP 2015-2019. Susi was considered successful and had played an important leading role in the Task Force 115, including her expertise in coordinating cross-sectoral agencies, both civil and military agencies
Information Technology-Based Integrated Criminal Case Management Database System	The Coordinating Ministry for Political, Legal, and Security Affairs as the Coordinator	Sectoral ego issue among agencies involved in the SPPT-TI remains exists, particularly in relation to the list of documents to be exchanged. With respect to this issue, the role of Kemenkopolkukam as the leading agency must be escalated, considering that current coordination is on the contrary encouraged by working group (pokja) and steering team.
Multidoor	There is no leading sector	The multidoor cooperation model does not recognize leadership element. Consequently, different policies of each agency leadership involved in the multidoor approach have become the critical challenges in the effort to realize the SDA-LH case management with multidoor approach.
Corruptor Hunting Team	Deputy Attorney General as the Chairperson of the Team	After Andhi Nirwanto retired, the position of Team Head was vacant for 1 year and 10 months, before being filled by Arminsyah. The vacancy had made the overall performance of the team non-optimal.

## B. LEGAL FRAMEWORK

The implementation of inter-agency coordination is due in part to the basic elements of law as an instrument to effectively distribute the roles and responsibilities of each agency.<sup>109</sup> The legal framework serves as a guideline for the agencies involved, particularly in dealing with urgent conditions that require multi-institutional responses.<sup>110</sup>

In addition, the preparation of the legal framework governing the inter-agency cooperation pattern influences either the implementation or results (outcomes).<sup>111</sup> The existence of a legal framework is also a fundamental variable to determine the sustainability of inter-agency cooperation.<sup>112</sup> Basically, coordination mechanism must be formalized with a clear goal so that the parties

109 Bardach, E. 1998. *Getting Agencies to Work Together: The Practice and Theory of Managerial Craftsmanship* (Washington, DC: Brookings Institution Press)

110 Matt Gasior, 2017, "Interagency Collaboration in Law Enforcement", <https://www.powerdms.com/blog/interagency-collaboration-law-enforcement/>, accessed on 13 August 2020

111 Kevin D. Ward, et. al., *Institutional Factors and Processes in Interagency Collaboration: The Case of FEMA Corps*, *American Review of Public Administration*, Vol 48 (8), (2018), page 856.

112 *Ibid.*

can work together in a more collaborative manner and minimize the occurrence of conflict.<sup>113</sup>

The adoption of legal framework to carry out coordination is not a new thing. The implementation of formal legal instruments is more commonly found in the inter-state agency cooperation than in the business sector cooperation. This is not caused by a lack of trust among agencies, but rather due to the institutional culture and the need for supervision and responsibility that must be standardized.<sup>114</sup> Various forms of legal instruments at various levels of the regulatory hierarchy are selected to cover a wide spectrum of dynamic inter-agency relations.

There are at least two categories of legal framework, namely those formed with legal instruments accommodated in the hierarchy of laws and regulations and those formed under derivative rules. In Indonesia, the adoption of legal framework model in inter-agency cooperation is quite varied. The Task Force for the Illegal Fishing Eradication, which is more popularly known as Task Force 115, was set up based on Regulation of the President of the Republic of Indonesia No. 115 of 2015. The formation on the basis of this Presidential Regulation is crucial to support the dynamics of relations between agencies involved in Task Force 115. Another model of cooperation that was also established under the Presidential Regulation is the Task Force for Sweeping Illegal Levies, namely under Regulation of the President of the Republic

of Indonesia No. 87 of 2016.

Considering that this Presidential Regulation was signed directly by the President, the institutional ego that often hampers the implementation of coordination can be minimized.<sup>115</sup> This is in line with the findings of the Center for the Study of Interagency Cooperation, where formally formed inter-agency collaboration can mitigate various conflicts, including inter-agency ego and rivalry.<sup>116</sup> The division of roles and responsibilities that are relevant to the duties and functions of the agencies involved as indicated in the Presidential Regulation also encourages optimum implementation of this law enforcement cooperation.

In addition to detailed provisions in Presidential Regulation No. 115 of 2015, the scope of authority of members of Task Force 115 has also been clarified by bilateral Memorandum of Understanding (MoU) among the members of the Task Force. For example, the MoU between KKP and the Ministry of Defense which includes assistance in the strengthening of facilities and infrastructure for marine and fishery resources (SDKP) surveillance, data and information exchange, support for policy and capacity building of HR, as well as support for national defense strategic policies. There is also MoU between KKP and Bakamla (still in the form of draft PKS) which includes SDKP security and surveillance joint operation, coordination of marine and fishery criminal handling, the use of dock, data and information exchange,

113 Frederick M. Kaiser, 2011, Op. Cit., page 17.

114 Jane Fountain, Implementing Cross-Agency Collaboration: A Guide for Federal Managers, (IBM Center for The Business of Government, 2013), page 28.

115 Discussion on Sharpening Inter-Agency Coordination Practice in Law Enforcement in Indonesia with the Ministry of Marine Affairs and Fisheries on 18 June 2020.

116 Frederick M. Kaiser, 2011, Interagency Collaborative Arrangements and Activities: Types, Rationales, Considerations, page 16.

capacity building of personnel in the SDKP security and surveillance, as well as increase in knowledge and development of marine and fishery communities.

The legal framework accommodated in the hierarchy is not only adopted in Indonesia but also found in the United States. President Barack Obama issued Presidential Instruction No. 13508 concerning the Protection and Restoration of the Chesapeake Bay, as the legal framework for the formation of the Chesapeake Bay Federal Leadership Committee.<sup>117</sup> The committee was set up to oversee the development and coordination of programs and activities, including data and reporting management, of the various participating agencies in the protection and restoration of the Chesapeake Bay. Unlike the United States, in the scope of corruption case management, Argentina does not have a specific regulatory umbrella to form either a task force or working group, but the coordination is carried out informally under a Memorandum of Understanding.

On the other hand, the legal framework in the form of derivative rules such as Ministerial Decree and Memorandums of Understanding has recently been widely used to cover form of inter-agency cooperation. In the United States, the state of California issued a Memorandum of Understanding on biodiversity in 1991 as the basis for the formation of The California Biodiversity Council.<sup>118</sup> The agency was established to improve coordination between agencies

involved in the resource management and environmental protection sectors, at local and federal levels.<sup>119</sup>

In the context of Indonesia, one of the coordination models formed by virtue of derivatives regulations was the Corruptor Hunting Team, which refers to Decree of the Coordinating Minister for Political, Legal, and Security Affairs Number: Kep-54/Menko/Polhukam/12/2004 regarding Integrated Team for the Hunting of Convicted and Suspected Corruption Crime. The similar coordinating model was also adopted in the Information Technology-Based Integrated Criminal Case Management Database System (SPPT-TI), which was developed under Memorandum of Understanding among the Supreme Court, Coordinating Minister for Political, Legal, and Security Affairs, the National Police, Public Prosecutor's Office, Ministry of Law and Human Rights, Ministry of Communication and Informatics, Ministry of National Development Planning and the State Code Institution No. 1/NK/MA/1/2016; No. NK-01/MENKO/POLHUKAM/01/2016; No. B/6/I/2016; No. KEP-022/A/JA/01/2016; No. M.HH-03.HM.05.02 Tahun 2016; No. 96/M.KOMINFO/HK.03.02/01/2016; No. NKB 01/M.PPN/01/2016; No. PERJ.8/SU/KH.02.01/01/2016 regarding the development of Information Technology-Based Integrated Criminal Case Management Database System.

The unique fact is although it was formed by virtue of a Memorandum of Understanding, the implementation of the SPPT-TI was strengthened through a Presidential Decree related to the National Medium-Term

117 Chesapeake Bay Protection and Restoration, Executive Order 13508, issued by President Barack Obama, May 12, 2009, 74 FR 23099-23104, May 15, 2009

118 State of California Biodiversity Council, <http://biodiversity.ca.gov/council/about/history-and-mou/> accessed on 12 September 2020.

119 *Ibid.*

Development Plan and the Government's Work Plan, which put the SPPT-TI as one of the national priorities in the field of legal development. In addition, to optimize the implementation of the Memorandum of Understanding, work guidelines had been prepared by echelon 1 officials of each agency and were signed in 2017. Although this system was developed based on derivative rules, the implementation of SPPT-TI was quite effective. Each agency involved plays its roles and gives contribution according to the predetermined corridor.<sup>120</sup>

Another coordination model based on the Memorandum of Understanding was the Law Enforcement in the SDA-LH sector based on the Multidoor approach in 2012. This model was followed up by the preparation of a Joint Regulation on the Management of Criminal Cases related to the SDA-LH on Forests and Peatlands based on the Multidoor approach. Despite detailed elaboration of the inter-agency coordination mechanism in the joint regulation, in practice the multidoor model had not been widely used. Moreover, in its development there had been expansion of the subject involved in the Multidoor, namely the Ministry of ATR/BPN even though it was not a party to the Memorandum of Understanding or Joint Regulation.<sup>121</sup> In fact, quite a lot of cases were managed jointly by the Ministry of KLHK and the Ministry of ATR/BPN by using a multidoor approach.

This condition is then reflected to see the significance of the legal framework to

encourage the implementation of inter-agency coordination. In this regard, Rodrigo Serrano argues that the legal framework often serves as the basis for coordination, but it is not sufficient to provide effective results, especially in countries with weak bureaucratic responsibilities.<sup>122</sup> In the multidoor practice between KLHK and the Ministry of ATR/BPN, the leadership of each agency is continuously encouraging multidoor implementation without an MoU. Each leadership believes that basically, coordination lies on the information exchange and joint investigation, so that the formulation of the MoU can follow later. This implies that political commitment is more needed than legal framework.<sup>123</sup>

The below table summarizes the influence of analysis of legal framework elements on the inter-agency cooperation model.

120 Discussion on Sharpening Inter-Agency Coordination Practice in Law Enforcement in Indonesia with the Ministry of National Development Planning and the Coordinating Ministry for Political, Legal and Security Affairs on 8 July 2020.

121 Discussion on Sharpening Inter-Agency Coordination Practice in Law Enforcement in Indonesia with the Ministry of ATR BPN on 25 June 2020.

122 Rodrigo Serrano, What Makes Inter-Agency Coordination Work? Insights from the Literature and Two Case Studies, (Washington: InterAmerican Development Bank, 2003), <https://publications.iadb.org/publications/english/document/What-Makes-Inter-Agency-Coordination-Work-Insights-from-the-Literature-and-Two-Case-Studies.pdf>, page 9.

123 Julie Slayton, Establishing and Maintaining Interagency Information Sharing, JAIBG Bulletin, Juvenile Accountability Incentive Block Grants Program, US Department of Justice, (2000), <http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.211.7515&rep=rep1&type=pdf>, page 7.

**Table 4.2. Basic Elements of Cooperation Model**

Form of Coordination	Legal Framework	Description
Task Force 115	Regulation of the President of the Republic of Indonesia No. 115 of 2015	Considering that this Presidential Regulation was signed directly by the President, the institutional ego that often hampers the implementation of coordination can be minimized. The division of roles and responsibilities that are relevant to the duties and functions of the agencies involved as indicated in the Presidential Regulation also encourages optimum implementation of this law enforcement cooperation.
Information Technology-Based Integrated Criminal Case Management Database System	Memorandum of Understanding among the Supreme Court, the Coordinating Ministry for Political, Legal, and Security Affairs, the National Police, Public Prosecutor's Office, the Ministry of Law and Human Rights, the Ministry of Communications and Informatics, the Ministry National Development Planning, and the State Code Institution No. 1/NK/MA/1/2016; No. NK-01/MENKO/POLHUKAM/01/2016; No. B/6/I/2016; No. KEP-022/A/JA/01/2016; No. M.HH-03.HM.05.02 Tahun 2016; No. 96/M.KOMINFO/HK.03.02/01/2016; No. NKB 01/M.PPN/01/2016; No. PERJ.8/SU/KH.02.01/01/2016 regarding the Information Technology-Based Integrated Criminal Case Management Database System.	Although this system was developed based on derivative rules, the implementation of SPPT-TI was quite effective. Each agency involved plays its roles and gives contribution according to the predetermined corridor.

Form of Coordination	Legal Framework	Description
Multidoor	Memorandum of Understanding among the Minister of Forestry, the Minister of Environment, the Minister of Finance, Attorney General's Office, Chairperson of Financial Transaction Reporting and Analysis and Chief of National Police regarding Improved Law Enforcement-related Cooperation for Supporting Sustainable Natural Resources Management in the context of REDD+ Implementation No. NK 8/Menhut-II/2012; No. 01 Tahun 2012; No. MOU-11/MK.011/2012: No. 176/A/JA/12/2012; NO. B/50/XII/2012; No. NK-59/1.02/PPATK/12/12	After the Memorandum of Understanding as the legal framework was signed, the multidoor cooperation model was followed up by the formation of joint regulation. Interaction among agencies involved is regulated in a more detail and comprehensive manner in the aforementioned regulation. However, the strong legal foundation was not accompanied with high enthusiasm of each agency to implement the multidoor approach.
Corruptor Hunting Team	Decree of the Coordinating Minister for Political, Legal and Security Affairs Number: Kep-54/Menko/Polhukam/12/2004 regarding Integrated Team for the Hunting of Convicted and Suspected Corruption Crime.	By 2017, the Corruptor Hunting Team is no longer operating as the team's term of services has expired. Currently, the team is waiting for the extension of Decision which is in progress by the Kemenkopohukam.

On the other hand, formation of derivative rules as a legal framework was not only found in cooperation originating from new initiatives, but also in cooperation built as a follow-up to the authority granted by the laws and regulations above. The cooperation between the KPK and PPATK related to the prevention and eradication of the criminal act of money laundering has adopted this model, which, although classified as business as usual as a regulatory mandate, the cooperation with investigators is set out in a special MoU to describe in detail the inter-agency coordination pattern. In general, the agreement at the leadership level is first set forth in an MoU, to be subsequently followed by an MoU at the technical level discussing the pattern of cooperation in a more detail

manner.<sup>124</sup>

The similar thing was also conveyed by PPNS Plantation who emphasized the urgency of drafting an MoU between PPNS Plantation and Korwas PPNS to make cooperation easier, even though the relationship of authority between the two institutions had been provided for in a Law.<sup>125</sup> Therefore, it is understood if there is a tendency to standardize institutional interactions into the legal framework, especially to derivative rules. This is in line with the theory described

<sup>124</sup> Discussion on Sharpening Inter-Agency Coordination Practice in Law Enforcement in Indonesia with the Center for Financial Transaction Reporting and Analysis (PPATK) on 8 July 2020.

<sup>125</sup> Discussion on Sharpening Inter-Agency Coordination Practice in Law Enforcement in Indonesia with the Ministry of Agriculture on 20 June 2020.

previously, where the formation of the legal framework in the context of inter-agency cooperation is based on the developing institutional culture. Coordination under this legal framework was also chosen to minimize various risks that often arise in informal coordination models, including the effectiveness of coordination which depends on the personnel of the agencies involved, rather than on the inter-agency relationship.<sup>126</sup>

The dependence on the agency personnel involved has resulted in the emergence of sustainability issue related to the coordination. There are concerns that if the relevant personnel are later transferred, the coordination will discontinue.<sup>127</sup> Interestingly, although Indonesia generally adopts a legal framework to standardize coordination, the sustainability issue remains a worth noting in various models of inter-agency coordination. For example, the aforementioned cooperation between the KPK and PPATK used a liaison officer scheme to facilitate communication between agencies. However, if the appointed party is later transferred to another place, then the institutional communication needs readjustment.<sup>128</sup> This condition is certainly an anomaly where the effectiveness of formal coordination still more or less depends on the personnel involved.

## **C. ORGANIZATIONAL STRUCTURE**

The organizational structure referred to in this discussion includes 2 (two) items, namely (1) internal organizational structure of the K/L that carries out law enforcement functions; and (2) external organizational structure in inter-agency cooperation model. The internal organizational structure of K/L includes the main tasks and functions (tupoksi) of bureaucratic units in each K/L that can support inter-agency coordination works in law enforcement. At the same time, the external organizational structure in inter-agency cooperation model refers to the roles of K/L in cooperation with other agencies. However, when referring to the 'collaboration' model which does not have a firm organizational structure, each agency or unit within it still has its own roles and responsibilities in a coordination mechanism.

### **INTERNAL ORGANIZATIONAL STRUCTURE OF K/L THAT PERFORM LAW ENFORCEMENT FUNCTIONS**

The first discussion refers to the internal bureaucracy of K/L which focuses on distinction in the level of position or authority where these distinctions can (but not necessarily always) be obstacles in the site coordination. This usually happens when a particular decision must be made in a coordinating meeting by the officials present. Decisions cannot be taken immediately due to constraint of the level of office so that they must be consulted with officials above.<sup>129</sup>

126 Homeland Defense, *US Northern Command Has Made Progress but Needs to Address Force Allocation, Readiness Tracking Gaps, and Other Issues*, (Washington: Government Accountability Office, Washington, 2008), page 41.

127 *Ibid.*

128 Discussion on Sharpening Inter-Agency Coordination Practice in Law Enforcement in Indonesia with the Center for Financial Transaction Reporting and Analysis (PPATK) on 8 July 2020.

129 Kevin J. Strom and Joe Eyermen, "Interagency Coordination: A Case Study of the 2005 London Train Bombings," *National Institute of Justice Journal*, No. 260 (2008), page 9.

If reflected in the example of the SDA-LH law enforcement agency in Indonesia, there are differences in the placement of law enforcement affairs within the K/L scope. Of the 6 (six) K/Ls related to the SDA-LH law enforcement, only the Ministry of LHK that puts law enforcement functions directly under the Directorate General (Echelon 1), while 3 K/Ls put it within the scope of the Directorate (Echelon 2), namely the Ministry of ATR/BPN, the Ministry of Maritime Affairs and Fisheries and the Ministry of Finance (Customs and Excise; Taxes). At the same time, the Ministry of Agriculture and the Ministry of Energy and Mineral Resources put the law enforcement affairs in the Sub-Directorate (Echelon 3). The placement of law enforcement affairs within the scope of the Directorate General demonstrates that the affairs are a priority in the KLHK – by taking into account the position of the Director General as the budget user. As a technocratic official, the Director General has an important role in making strategic decisions within the scope of K/L, in which sometimes the decisions that must be taken will become a solution to a set of constraint in coordination at the field official and personnel level. If the official assigned to make coordination is an official of Echelon 2 and below, it will be difficult to find a specific solution to a problem encountered in the field because the problem often has dimensions that must be considered at the leadership (Director General/Echelon 1) level.

For example, directives of leadership of the Directorate General of Mineral and Coal (Minerba) at the Ministry of Energy and Mineral Resources regarding follow up to illegal mining can only be implemented on practices within the Mining Business Permit

(IUP) area.<sup>130</sup> Therefore, the follow up to illegal mining practices outside the IUP area is considered to be the law enforcement authority, in this case the National Police. The next example, the Ministry of ATR/BPN is more likely to use the ultimatum remedium principle by prioritizing administrative and civil law aspects before applying provisions of criminal law against the Spatial Planning violations.<sup>131</sup>

In this situation, intensive coordination must also be implemented vertically in the respective agency considering the characteristics of coordination within a bureaucracy that involves a level of authority that requires all bureaucracy elements be involved (at least knowing and supporting) and take participate in ensuring the successful implementation of coordination outside their agency.<sup>132</sup>

This is closely related to the official who – more often – will conduct inter-agency coordination, namely the official leading the Directorate and/or Sub-directorate. Structurally, the technical implementation of day-to-day activities within the K/L scope is usually carried out by officials at the Echelon 2 level, which in this case is led by a Director who is assisted by several Kasubdit (Echelon 3). Referring to the institutional structure

130 Discussion on Capacity Building and Sharpening Inter-Agency Coordination Practice in Law Enforcement in SDA-LH sector with the Ministry of Energy and Mineral Resources, Via Zoom Application, 29 June 2020.

131 It happened, for example in the handling of Citarum River pollution-related case. After joint investigation of KLHK and the Ministry of ATR-BPN, further investigation was then conducted separately by each agency, considering that the follow up to case handling must be left to each agency's policy so that not all cases must be brought before criminal court. Discussion on Capacity Building and Sharpening Inter-Agency Coordination Practice in Law Enforcement in SDA-LH sector with the KLHK, via Zoom Application, 17 July 2020.

132 Olson, William J., and Gabriel Marcella, *Affairs of State: The Interagency and National Security Report*, (Strategic Studies Institute, US Army War College, 2018), page 384.

in a number of K/L in the SDA-LH sector (See table 4.3), law enforcement affairs are commonly carried out within the scope of the main duties and functions of the Directorate. For example, in the KKP, the Ministry of ATR/BPN, and the Ministry of Finance (Directorate

General of Taxes and Customs). At the same time, the law enforcement functions in the Ministry of Agriculture and the Ministry of Energy and Mineral Resources are placed in the scope of the Sub-Directorate.

Table 4.3 Comparison of Organizational Structure of Law Enforcement of APH – K/L in the SDA – LH Sector

APH – K/L	Ministry of LHK	Ministry of Agriculture	Ministry of ATR/BPN	Ministry of ESDM	Ministry of Marine Affairs and Fisheries
Echelon 1	Directorate General of Environmental and Forest Law Enforcement	Directorate General of Plantation	Directorate General of Control for Spatial Utilization and Land Control	Inspectorate General (as Coordinator of PPNS ESDM)	Directorate General of Marine and Fishery Resources Surveillance
Echelon 2	Directorate of Criminal Law Enforcement	Secretary to the Directorate General of Plantation <sup>133</sup>  Directorate of Plantation Protection	Directorate of Spatial Regulation and Utilization	Director of Engineering and Environment (as Head of Mining Inspector)	Directorate of Violation Management
Echelon 3	Sub-Directorate of Environmental Destruction Investigation, Forest and Land Fires		Sub-Directorate of Spatial Regulation and Utilization Region I	Sub-Directorate of Mineral and Coal Engineering Supervision	Sub-Directorate of Investigation
	Sub-Directorate of Forest Encroachment Investigation		Sub-Directorate of Spatial Regulation and Utilization Region II		Sub-Directorate of Instrument of Evidence and Vessel Crew Management
	Sub-Directorate of Environmental Pollution Investigation		Sub-Directorate of Spatial Regulation and Utilization Region III		Sub-Directorate of Fishery PPNS Personnel and Legal Management Cooperation
	Sub-Directorate of Illegal Logging and Biodiversity-related Crime Investigation		Sub-Directorate of Spatial Regulation and Utilization Region IV		Sub-Directorate of Analysis and Repression
APH – K/L	Ministry of Finance		National Police		Public Prosecutor's Office
Echelon 1	Directorate General of Customs and Excise	Directorate General of Taxes	Criminal Investigation Agency		Junior Attorney General for General Crimes

<sup>133</sup> Discussion on Capacity Building and Sharpening Coordination Practice in Enforcement of SDA-LH Law with the Ministry of Agriculture, Via Zoom Application, 24 June 2020.

## ANALYSIS OF INTER-AGENCY COOPERATION ELEMENTS IN LAW ENFORCEMENT IN INDONESIA

Echelon 2	Directorate of Repression and Investigation	Directorate of Law Enforcement	Directorate of Certain Crimes	Coordinating and Supervisory Bureau for Civil Servant Investigators	Directorate of Other General Crimes
APH – K/L	Kementerian Keuangan		Kepolisian		Kejaksaan
Echelon 3	Sub-Directorate of Intelligence	Sub-Directorate of Preliminary Instrument of Evidence Examination	Sub-Directorate of Wild Plants and Animals	Investigation Supervision Unit	Sub-Directorate of Pre-Prosecution
	Sub-Directorate of Repression	Sub-Directorate of Investigation	Sub-Directorate of Forestry and Environment	PPNS Development Unit	Sub-Directorate of Prosecution I
	Sub-Directorate of Sea Patrol	Sub-Directorate of Forensic and Instrument of Evidence	Sub-Directorate of Marine Affairs	Operational Assistance Unit	Sub-Directorate of Execution and Examination
	Sub-Directorate of Narcotics		Sub-Directorate of Plantation	PPNS Personnel Administration Unit	Sub-Directorate of Coordination of PPNS and Institution
	Sub-Directorate of Investigation		Sub-Directorate of Mining and Oil and Gas		
	Sub-Directorate of Operational Facilities				
APH – K/L	PPATK		KPK		
Echelon 1	Deputy for Eradication	Deputy for Repression			
Echelon 2	Directorate of Transaction Analysis	Directorate of Preliminary Investigation (Investigation Task Force)	Directorate of Investigation (Investigation Task Force)	Prosecution Directorate (Prosecution Task Force)	Working Unit of Asset Tracing, Management of Instrument of Evidence, and Execution (Labuksi) Task Force for Asset Tracing Task Force for Instrument of Evidence Management Task Force for Execution

APH – K/L	PPATK	KPK
Echelon 3	<p>Group of Bank Financial Service Provider Report Analysis</p> <hr/> <p>Group of Non-Bank Financial Service Provider and Other Goods and/ or Service Provider Report Analysis; and</p> <hr/> <p>Group of Public Information Request and Complaint Analysis</p>	
APH – K/L		KPK
Echelon 1		Deputy for Repression
Echelon 2		Coordination and Supervision Working Unit (Coordination and Supervision Task Force)

The Ministry of Environment and Forestry there are several positions of Head of Sub-Directorate handle law enforcement-related issues, namely sub-dit prevention and security, sub-dit criminal, sub-dit dispute resolution (civil) and sub-dit administrative sanctions. The positions are not found in other K/Ls where the Directorate of law enforcement focuses on case resolution according to the criminal law. In the Ministry of Environment and Forestry, this is related to the Ministry's efforts to simultaneously carry out civil and administrative legal efforts against violations of forestry and environmental regulations. Civil lawsuits against other K/Ls are usually handled by the Legal Bureau except for the Attorney General's Office. If inter-agency coordination is carried out within the scope of the SDA-LH law enforcement, then a number of directorates at the Directorate General of Law Enforcement of the Ministry of Environment and Forestry must be actively participate while other K/Ls will only send one directorate and/or one related Sub-Directorate.

Another problem related to the institutional organizational structure is the unclear structure of law enforcement in several K/Ls. Referring to the organizational structure of law enforcement at the Ministry of Environment and Forestry (Figure 4.1), it is clear that a number of structural positions exist under the Directorate General of Environmental and Forestry Law Enforcement (Gakkum LHK). Based on the Minister of Environment and Forestry Regulation Number: P.18/MENLHK-II/2015 concerning Organization and Operational Procedures of the Ministry of Environment and Forestry, the Directorate General of Law Enforcement LHK in carrying out its duties and functions shall consist of 1 (one) Secretariat and 4 (four) Directorates and assisted by 5 (five) Center for Security and

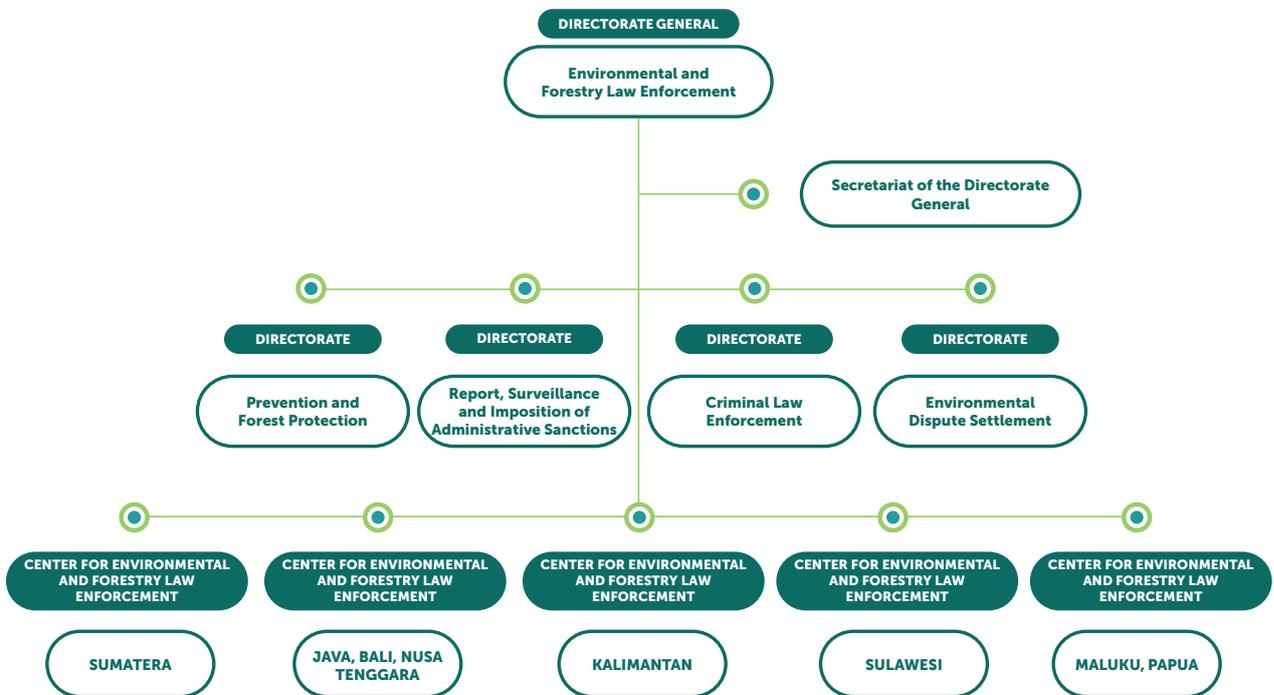
Law Enforcement of LHK<sup>134</sup> (Balai Gakkum). The five Balai Gakkums aims to support the implementation of the duties and functions of the Directorate General of Gakkum LHK throughout the territory of the Republic of Indonesia. Balai Gakkum is a technical implementing unit in the environmental and forestry security and law enforcement which is under the coordination of and responsible to the Director General of Gakkum LHK.

On the other hand, some other K/Ls such as the Ministry of Agriculture and the Ministry of Energy and Mineral Resources, do not have firm structure to carry out law enforcement functions, despite the number of their Civil Servant Investigators (PPNS) personnel. On average, PPNS in the two ministries hold structural position (or work) that is different with their main duties and functions (tupoksi) as PPNS. Therefore, tupoksi within the scope of structural positions will take precedence over the role of PPNS. If there is a case handling task as PPNS, they must obtain permission from their superiors who are sometimes not PPNS.<sup>135</sup> At the same time, 1,368 PPNS at the Directorate General of Customs and Excise have not performed their functions optimally because only 104 personnel who have the status of executive officer while the rest occupy structural positions. On the other hand, PPNS who are not placed in the supervisory unit do not function as investigators

134 Ministerial Regulation P.15/MenLHK/Setjen/OTL.0/1/2016 on Organization and Operational Procedures of Center for Protection and Enforcement of Environmental and Forestry Law.

135 Head of the PPNS Mineral and Coal acting as the Superior of the Investigators in the Ministry of ESDM is not PPNS, so that to grant Instruction of Investigation signed by the Secretary of PPNS Mineral and Coal, Decision of the Director General Number 17 of 2019 stipulates the Director of Environmental Engineering of Mineral and Coal to concurrently hold the PPNS Head position. However, since the person holding ex-officio position of the Director of Environmental Engineering of Mineral and Coal is not PPNS, Sprindik is signed by the Secretary of PPNS holding the position as the Head of Sub-Directorate of Mineral Operation Production since the relevant person is PPNS.

Image 4.1. Organizational Structure of the Directorate General of Environmental and Forestry Law Enforcement of the Ministry of Environment and Forestry



The independence issue remains dominant in terms of law enforcement in 3 (three) K/Ls that are not vertical agencies, namely the Ministry of ATR/BPN, the Ministry of Agriculture and the Ministry of Energy and Mineral Resources. The three ministries do not have structural organs in the regions such as Center for Law Enforcement (Balai Gakkum) KLHK. PPNS who is on duty in the regions are under the authority of the respective Regional Heads, either in province or district/city. In addition to making coordination difficult, PPNS in the regions are also vulnerable to the threat of demotion when investigating cases suspected to involve the regional heads or parties affiliated with certain regional heads.<sup>136</sup>

### **EXTERNAL ORGANIZATIONAL STRUCTURE IN THE INTER-AGENCY COOPERATION MODEL**

The organizational structure addressed in this second discussion (external) classifies the models into collaboration and coordination. This form of collaboration prioritizes the initiative of each agency as reflected in the practice of handling the natural resources-environment cases on forests and peatlands by employing multidoor approach and cooperation practice between PPAK and the KPK in handling money laundering crimes. This model is known as collaboration because it does not have a special organizational structure to carry

<sup>136</sup> Discussion on Strategies and Challenges in the Case Handling with the Ministry of ATR/BPN and the Ministry of Plantation on

24 and 25 June 2020 via zoom application.

out coordinative works. Coordination activities are mostly performed by putting a high priority on active participation of the parties in the cooperation. The absence of organizational structure has been able to create a more flexible inter-agency relations because each agency has the same role at every law enforcement phase. At the same time, coordination has a lead coordinator and works based on formal authority to provide instruction, directives and order to members of the organization. This model has a clear organizational structure.

If we look closely the flow of the case handling process using a multidoor approach (See Chapter II, Image 2.2), it is clear that the need for the role of each agency arises when the coordination forum decides that a reported or discovered case must be handled using a multidoor or multi regime of law approach, meaning that the process will involve more than one agencies. When the case handling is continued to the investigation phase, each agency will exercise its authority in the investigation (parallel investigation) while still communicating with each other.

In its implementation, this collaboration model does not appear to be optimal to ensure a parallel law enforcement process in each K/L. The legal process, which had been going well at the beginning, then became unclear in its continuation in some of the K/L involved. As happened in law enforcement against environmental destruction case, mangroves and beach reclamation without permission in Air Saga Village, Tanjung Pendam Village, Tanjungpandan District, Belitung Regency, Bangka Belitung Islands Province. In 2019, PPNS in 3 Ministries, namely KLHK, Ministry of ATR/BPN and KKP sealed the location. Then, in January 2020,

KLHK has named an actor with the initials TI as a suspect related to criminal acts of environmental destruction and activities without an environmental permit, as well as PT. PAN and PT. BMMI as the owner of the hotel has become a suspect in the corporate environmental destruction due to beach reclamation.<sup>137</sup> However, violations of the Coastal Zone and Small Islands Zoning Plan (RZWP3K) of the Bangka Belitung Islands (which have not been ratified) and violations of regulations in the marine and fisheries sector have not seen any follow up from the Ministry of ATR/BPN or by the KKP.

The ineffectiveness of the law enforcement process – it seems – does not only stem from the applied cooperation model, but is also suspected to be related to the internal readiness of each K/L. In that case, the Ministry of ATR/BPN still has to work hard to reconstruct spatial layout violations where there is no common view between experts<sup>138</sup> On the other hand, the KKP has not yet had the specifications for investigators who specifically deal with violations of the Coastal Zone Management Act. and Small Islands (WP3K).<sup>139</sup>

In a cooperation of 'coordination', there is clearly an organizational structure from the higher to lower level positions, for example, coordination in the handling of fishery crimes by Task Force 115 in which the joint team is

137 Octa Dandy Saiyar, "Law Enforcement Officials of KLHK Detain TI Suspected Perpetrator of Environmental Destruction in Belitung Regency (Gakkum KLHK Tahan TI Tersangka Pelaku Perusakan Lingkungan Hidup di Kabupaten Belitung)" <http://gakkum.menlhk.go.id/infopublik/detail/36>. Accessed on 5 October 2020.

138 Discussion on Sharpening Inter-Agency Coordination Practice in Law Enforcement in Indonesia with the Ministry of ATR/BPN on 25 June 2020.

139 Meeting to Prepare Discussion on Capacity Building of PPNS Ministries/Institutions and Investigators of the National Police of the Republic of Indonesia on 25 September 2020.



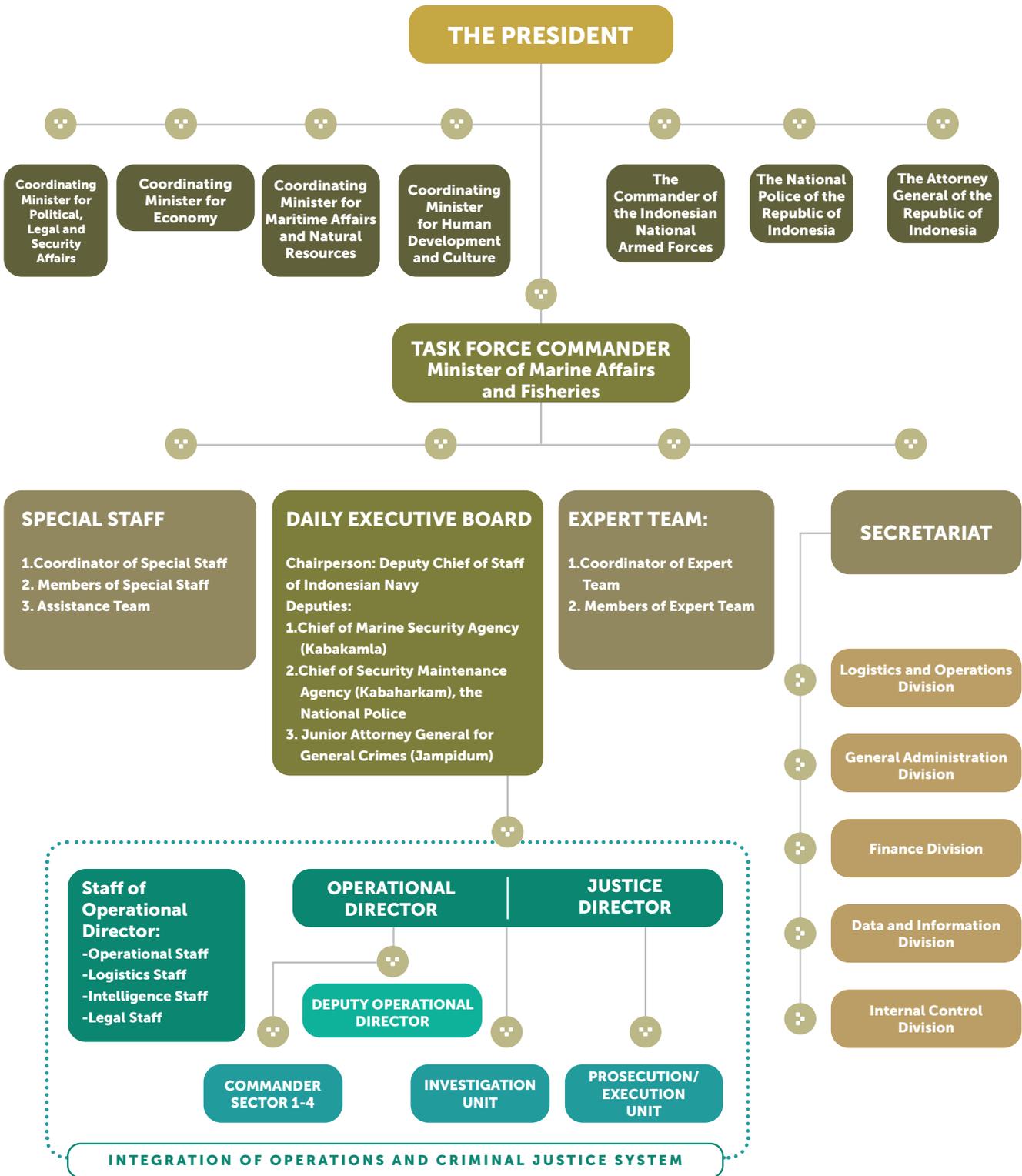
filled by representatives of each element with more technical positions. This coordination pattern facilitates the implementation of tasks, by immediately identifying which party is responsible for handling the fishery crime in each agency. The Commander of the Task Force (in this case the Minister of Maritime Affairs and Fisheries) also plays a significant role in ensuring that members of Task Force 115 work in compliance with the directives).

However, the coordination model can only be applied to one specific business. For example, fishery law enforcement, law mafia handling (Law Mafia Task Force) or accelerated extradition of corruption convicts (assets) (Corruptor Hunting Team). In principle, one business is conducted by various agency elements, by determining the central role and the supporting role and spending the entire time and energy to deal with that business. This has implications for the budgeting process that is allocated to the

agency having the central role. In the case of Task Force 115, it is clear that the KKP is an institution that has a central role, while other agencies play their supporting role in the successful KKP ministry's portfolio, in terms of the reduction of illegal fishing practices.

It is not easy to deal with cross-sectoral problems using this form of coordination because each institution has different priorities. In the SDA-LH sector which includes quite broad areas of forestry, marine (fishery), mining, spatial planning and plantation affairs, it will be difficult to put more priority on a business than the others. For example, by focusing on illegal logging issue only and overlook illegal fishing affairs and spatial planning because each agency has equally important business to the other agency's business. Therefore, an equal condition is needed more to deal with cross-sectoral problems rather than a command structure (top-down).

**Image 4.2. Organizational Structure of Task Force 115**



Another weakness of this coordination form is that it makes the bureaucratic chain longer. The organs placed into the coordinating structure will potentially have overlapping duties with the internal structures of the existing agencies. Several coordination models previously presented also show overlapping tasks with other agencies that have similar authority. Similar to ICMBIO in Brazil, forest law enforcement is less effective because people trust the general criminal law enforcement agencies more to handle environmental and forestry cases. Similarly, the Sweeping Illegal Levies and Corruptor Hunting Team in Indonesia did not last long because there were 3 (three) other agencies doing the same thing, namely the National Police, the Prosecutor's Office and the KPK.

Almost all coordinating agencies tend not to last long (unsustainable), because their formation is focused solely on resolving one issue. Priority issues that have implications for budgetary politics have been the main factors for the discontinuity of the coordination model. The replacement of the Minister of Maritime Affairs and Fisheries in the Indonesia Maju Cabinet has significantly reduced attention to the performance of Task Force 115 even though the performance of Task Force 115 has had a major impact on the decrease in illegal fishing practices and increase in export and Non-Tax State Revenues (PNBP) in fishery sector. Similarly, the performance of the Corruptor Hunting Team under the command of the Deputy Attorney General, which was discontinued due to the vacancy of the Deputy Attorney General's position and the lack of budget allocations for the Corruptor Hunting Team in 2018.

## **D. BUDGET**

In its 2012 findings, GAO claimed budget as one of the important aspects in implementing coordination.<sup>140</sup> Ansell and Gash (2008<sup>141</sup>) mentioned the institutional design of protocol and basic rules is the fundamental issue to develop coordination process, including funding allocation. In order to build an effective coordination, it is necessary to conduct various activities that can foster trust among members, develop work system, and monitor as well as evaluate cooperation. These all activities require a large amount of funding.<sup>142</sup> The basic principle of activity budgeting is clear proposal for the activity planning.<sup>143</sup> Therefore, it is important to formulate funding mechanism in the inter-agency cooperation so that the allocated budget can sufficiently cover the operational needs of the team.<sup>144</sup>

In the context of Indonesia, budget politics in the coordination model can be divided into at least two categories, namely (1) Joint funding; and (2) budget allocation to one agency. In the joint funding model, two or more agencies share their budget allocation for the implementation of coordination in accordance with their respective duties and authorities.<sup>145</sup> This funding model had been adopted in the law enforcement of SPPT-

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140 Government Accountability Office, 2012, *Key Considerations for Implementing Interagency Collaborative Mechanism*, Washington DC, page 5

141 Ansell, C., & Gash, A. (2008). Collaborative governance in theory and practice. *Journal of Public Administration Research and Theory*, 18, pages 543-571.

142 *Ibid.*, hlm. 20.

143 Frederick A. Cleveland, "Constitutional Provision for a Budget", *Proceeding of the Academy of Political Science in the City of New York*, col. 5, No. 1, Revision of the State Constitution., page 143.

144 *Ibid.*

145 Rodrigo Serranno, *Op. Cit.*, page 14.

TI, multi-door approach, and cooperation between KPK and PPATK in the TPPU eradication. This scheme is more efficient, considering that each Ministry/Institution can prepare its own budget to implement its authority as specified in the mandate, so that each department's needs in the coordination model can be properly fulfilled. The effectiveness of this model highly depends on budgetary politics commitment of each Ministry/Institution to allocate sufficient resources so that the coordination model works optimally regardless of non-budgeted activities for supporting coordination in practice. For example, in the SPPT-TI, despite the allocated budget for the SPPT-TI facility and infrastructure procurement – as a consequence of the national priority, budget for consultant hiring and coordinative meeting by each Ministry/Institution was worth noting.<sup>146</sup>

In law enforcement which adopts multi-door approach, the budget aspect has also been one of the main causes of suboptimal implementation of this cooperation model. As a result of the absence of a multidoor coordination structure, each agency involved did not specifically budget for the handling of multidoor-related issue. The Ministry of Environment and Forestry which places law enforcement affairs at the echelon 1 level does not also allocate a budget for the case management with multidoor approach specifically. However, considering that case handling is part of the duties and functions of the Director General of Law Enforcement, the budget needs related to multidoor-related

activities are distributed through the case management budget so that the multidoor-related activities can be performed.<sup>147</sup> On the other hand, the agencies outside the Ministry of Environment and Forestry in charge of the SDA-LH affairs (such as ESDM, KKP, ATR/BPN and the Ministry of Agriculture) have not placed law enforcement affairs at the echelon 1 level, so that the budget for handling cases is not often optimally available. The lack of budget allocation has an impact on the agency's low participation in multidoor approach cooperation. This is in line with Canton's findings where agencies that are not supported by a sound organizational structure will find it difficult to meet budget requirements in the coordination.<sup>148</sup> Low participation of agencies outside the Ministry of Environment and Forestry has caused multidoor approach in law enforcement has not been implemented optimally to date.

In addition to joint funding, another funding model that is commonly used is the assignment to the budget items of a particular K/L. In his study, Ward stated that the reliance of funding on one agency has encouraged coordination.<sup>149</sup> This scheme can be seen in the Law Mafia Task Force, Task Force for Sweeping Illegal Levies, TPPU Committee, and the Corruption Eradication Coordination Team for the Eradication of Criminal Act of Corruption. The allocation of operational needs to a specific agency is expected to facilitate the mapping of

146 Discussion on Sharpening Inter-Agency Coordination Practice in Law Enforcement in Indonesia with the Ministry of National Development Planning and the Coordinating Ministry for Political, Legal and Security Affairs on 8 July 2020.

147 Discussion on Sharpening Inter-Agency Coordination Practice in Law Enforcement in Indonesia with KLHK on 17 July 2020.

148 Rob Canton, "Inter-Agency Cooperation: How Can It Best Enhance Compliance With The Law?", International Senior Seminar, [https://www.unafei.or.jp/publications/pdf/RS\\_No99/No99\\_VE\\_Canton\\_2.pdf](https://www.unafei.or.jp/publications/pdf/RS_No99/No99_VE_Canton_2.pdf) hlm 86, accessed on 20 October 2020.

149 Kevin D Ward, *et. al.*, *Op. Cit.*, page 855.

needs and allocations in terms of planning and budgeting. Therefore, the availability of resources in the implementation of duties and authorities can be more guaranteed. For example, the operational budget of Task Force 115 is entirely allocated by the KKP in accordance with the mandate set out in Presidential Regulation No. 115 of 2015.<sup>150</sup> This encourages the effectiveness of team work, considering that all the needs to carry out tasks and functions are provided with an optimal budget allocation.<sup>151</sup>

Another coordination model that uses a similar budgeting scheme is the Corruptor Hunting Team, where the Attorney General's Office is mandated to ensure the availability of budget for the implementation of the team's tasks. Although this scheme is intended to ensure task efficiency, there is potential risk that this scheme can lead to ineffective implementation of team tasks. For example, in 2018 the Attorney General's Office missed out on preparing budget for the team's activities in the DIPA, so the corruption hunting team could not perform its duties for one year.<sup>152</sup>

Therefore, the relevant ministries need to carry out regular monitoring to the agencies mandated, to prepare budget for the operational needs of the coordination team.

Unclear budgeting can also be observed in the coordination model of the Saber Pungli Team. This, for example, can be seen from the person in-charge of activities assigned to the Kemenkopolkam (because it is reflected in the budget allocation using the DIPA of the Kemenkopolkam) but the Chief Executive of the activities is mandated to Irwasum Polri. When compared to the Task Force 115 coordination model which explicitly and clearly places the budget item as well as the Task Force Commander in the KKP, the Minister KP who acts as the Task Force Commander has institutional responsibility to carry out the mandate assigned to the Task Force.

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150 Article 9 of Presidential Regulation No. 115 of 2015.

151 Discussion on Sharpening Inter-Agency Coordination Practice in Law Enforcement in Indonesia with the Ministry of Marine Affairs and Fisheries on 18 June 2020

152 "Corruptor Huntings Overseas are Hampered by Presidential Regulation (*Pemburuan Koruptor di Luar Negeri Mandek karena Terganjil Perpres*)." <https://www.gatra.com/detail/news/325098-Pemburuan-Koruptor-di-Luar-Negeri-Mandek-karena-Terganjil-Perpres>. Accessed on 31 March 2020.

**Table 4.4. Budgeting Model for the Coordination of Law Enforcement in Indonesia**

Form	Budget	Description
Information Technology-Based Integrated Criminal Case Management Database System	Allocated by each relevant Ministry and Institution	Constitutes national priority of the government in the field of law in the RPJMN 2015-2019 and RPJMN 2020-2024, so that budget allocation related to this activity was given highest priority in the planning and budgeting process in Bappenas. However, some items have not been allocated such as coordinative activity and consultant procurement.
Task Force for the Eradication of Illegal, Unreported and Unregulated Fishing (Satgas 115) KKP	DIPA of the Ministry of Marine Affairs and Fisheries	Budget for the team's needs was entirely prepared by KKP, so that the team was able to perform its tasks optimally.
Corruptor Hunting Team	DIPA of the Supreme Court	In 2018, the Attorney General's Office missed out on preparing budget for the Corruptor Hunting Team, so that the team could not perform its duties for one year.
Multidoor	Allocated by each relevant Ministry and Institution	The K/L involved failed to specifically allocate budget for multidoor purpose in each agency's DIPA. KLHK was of the opinion that multidoor represents the part of duties and authorities, so that budget for the implementation of multidoor was taken from the case management budget. Other K/Ls such as Kementan and ESDM had not structurally given priority to law enforcement issue which led to low budget allocation for case management.
Cooperation of KPK and PPATK in the eradication of TPPU	Allocated by each relevant Ministry and Institution	Cooperation between KPK and PPATK is part of the implementation of duties and functions so that the needs for budget are optimally met.

## E. COORDINATION MECHANISM

In general, inter-agency cooperation is due in part to the preparation of policies, procedures, and programs which is conducted in simultaneous manner.<sup>153</sup> In

the context of law enforcement, the OECD describes the cooperation as carried out through at least five activities, namely (a) joint investigation; (b) joint knowledge; (c) personnel assignment in other agencies;

<sup>153</sup> Government Accountability Office, *Key Considerations for Implementing Interagency Collaborative Mechanism*,

(Washington DC: GAO, 2012), Page 5

(d) joint training; (e) joint committee.<sup>154</sup> From this categorization, there are at least four activities carried out in the Indonesian coordination model, as described below.

### **JOINT INVESTIGATION**

Joint investigation is an inter-agency coordination mechanism which is frequently adopted to manage certain cases.<sup>155</sup> Joint investigation may minimize potential duplication of case management by allowing different agency adopting the same approach. In addition, the joint investigation is expected to increase case management effectiveness because each personnel may focus on different aspects according to the assigned duties and functions.

The joint investigation model is mostly adopted in the European Union (EU), through the establishment of a joint investigation team (JIT) based on a work agreement. The team is established temporarily and casuistic, namely to handle cases that require cross border within the EU. The coordination emphasizes the sharing of information and evidence gathered together without any requirement to adopt the Mutual Legal Assistance (MLA) scheme.<sup>156</sup> The information and instrument of evidence exchanged are specifically arranged for limited use in the context of case management, unless determined otherwise in the JIT formation

agreement. The composition of JIT requires a chairperson as a representative of each agency involved.

In Indonesia, the joint investigation scheme can be seen in several coordination models. The Corruptor Hunting Team has adopted a joint investigation mechanism with law enforcement agencies and non-law enforcement agencies to trace suspected corruptors who have fled abroad. As an illustration, the joint investigation mechanism at the Attorney General's Office as part of the Corruptor Hunting Team is carried out with the chronology as follows: the Junior Attorney General for Special Crimes (Jampidsus) sets the suspect as a fugitive and puts him on the wanted list. After that, the Jampidsus asks the Junior Attorney General for Intelligence (Jamintel) to conduct a search. The Jamintel then works in coordination with other agencies such as the Directorate General of Population and Civil Registration (Ditjen Dukcapil) of the Ministry of Home Affairs to trace the identity of the suspect and the Directorate General of Immigration at the Ministry of Law and Human Rights to determine the suspect's mobility to enter and exit Indonesia.

Although a joint investigation has been carried out, the implementation of the team's tasks can be hampered by the lack of willingness of the parties serving as the representatives of the agency, despite the fact that institutional coordination has been carried out. In addition, the difference between Indonesia's MLA mechanism and mechanism in destination countries remains a challenge to hunt down corruptors

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154 OECD, *Effective Inter-Agency Co-operation in Fighting Tax Crimes and Other Financial Crimes - Third Edition*, (Paris: OECD Publishing, 2017), <http://www.oecd.org/tax/crime/effective-inter-agency-co-operation-in-fighting-tax-crimes-and-other-financial-crimes.html>, Pages 122-123

155 IPROCEEDS, 2017, *General guide on Protocols on interagency and international cooperation for investigations involving proceeds from crimes online*, Page 21.

156 JITs Network, 2017, *Joint Investigation Teams Practical Guide*, <http://www.eurojust.europa.eu/doclibrary/JITs/JITs%20framework/JITs%20Practical%20Guide/JIT-GUIDE-2017-EN.pdf>, page 4.

abroad.<sup>157</sup> These obstacles were reflected in the low performance of the team, which only targeted 25% of the total 16 targeted fugitives during 2004-2016.<sup>158</sup> Therefore, one can conclude that this team has no significant impact on law enforcement efforts for the criminal act of corruption.

Following the expiration of the Decree on the Corruptor Hunting Team (Tim Pemburu Koruptor), there was idea to re-activate this team after discovery of the fact that Djoko Tjandra, who was a fugitive, could freely enter and leave Indonesia. The urgency of reactivation of this team was rejected by many parties, including the Indonesia Corruption Watch (ICW) agency. ICW noted that the pursuit of fugitive corruptors should not rely on the formation of a special team, but through evaluating the performance of various institutions involved in the efforts, including the Directorate General of Immigration at the Ministry of Law and Human Rights.<sup>159</sup> In addition, the government needs to increase MLA cooperation and extradition agreements with other countries that are prone to being places for corruptors to hide.<sup>160</sup>

In order to manage fishery criminal cases within the framework of Task Force 115, investigators from the Police, National Navy, and KKP often carry out joint investigations and share evidence in carrying out investigations.

Statistics show that of the 145 cases handled by the Task Force from 2015 to October 2019, 49 of them were handled by adopting a multidoor approach. One example is the case of the ship in Ambon, where, in addition to illegal fishing crime – as investigated by the KKP – there were also indicated crime of falsifying ID cards and TPPO which were then investigated by the Police.<sup>161</sup> Not only that, this joint investigation scheme was also carried out with law enforcement agencies abroad such as Interpol and AFMA, for example in the STS 50 case that occurred in Batam. This collaboration with overseas agencies is important because the majority of beneficial ownership in illegal fishing cases is located abroad.

In its formation document, law enforcement on SDA-LH with a multidoor approach also encourages a joint investigation model.<sup>162</sup> In practice, the implementation of joint investigations is focused on the initial phase of case management. In this case, each investigator provides information to each other regarding indications of other criminal acts in cases that are being handled in the case process. They also share instrument of evidence each other by sharing minutes of investigation. If the preliminary investigation process has been completed and the case will enter the investigation phase, each agency will conduct a separate investigation. This is because they have different duties and functions, provisions of laws and regulations, as well as policies of each agency's leaders. Therefore, not all cases are brought before the criminal court.

157 Discussion on Sharpening Inter-Agency Coordination Practice in Law Enforcement in Indonesia with Public Prosecutor's Office of the Republic of Indonesia on 20 June 2020.

158 "Integrated Team Searches the Convicts and Suspected Perpetrators of Corruption Crimes (Tim Terpadu Pencari Terpidana dan Tersangka Tindak Pidana Korupsi)." [https://www.kejaksaan.go.id/unit\\_kejaksaan.php?idu=2&sm=3](https://www.kejaksaan.go.id/unit_kejaksaan.php?idu=2&sm=3). Accessed on 13 February 2020.

159 ICW: Corruptor Hunting Team is not Required (ICW: Tim Pemburu Koruptor Tak Perlu). <https://news.detik.com/berita/d-5096126/icw-tim-pemburu-koruptor-tak-perlu> accessed on 18 August 2020.

160 *Ibid*

161 Discussion on Sharpening Inter-Agency Coordination Practice in Law Enforcement in Indonesia with the Ministry of Marine Affairs and Fisheries on 18 June 2020.

162 Memorandum of Understanding and Joint Regulation on Guidelines on Case Handling and Capacity Building of Law Enforcement Apparatus, page 14.

In handling the case of waste in the Citarum River, the KLHK involved the Ministry of ATR/BPN in the preliminary investigation phase. After conducting preliminary investigation, the Ministry of ATR/BPN did not continue the case to the investigation phase because it was deemed sufficient to impose administrative sanctions. In this case, there had been a change from the joint investigation model to parallel investigation, namely the simultaneous handling of cases using a criminal and administrative approach to a collection of legal facts by different agencies.<sup>163</sup>

Referring to regulation on the imposition of sanctions on crimes in the SDA-LH sector, the implementation of parallel investigation is a necessity. For example, in terms of spatial planning, violation of spatial use as provided for in Article 61 of Law No. 26 of 2007 concerning Spatial Planning (Spatial Law) shall be subject to criminal sanctions or administrative sanctions. Where, between the two types of sanctions, there is no certain categorization to determine when one of the sanctions is prioritized. This raises the investigator's doubts in the application of both sanctions. Actually, based on general accepted principles, if both administrative and criminal sanctions are the main punishment, then they cannot be imposed simultaneously despite the fact that administrative violation cannot negate criminal liability as in the criminal act of corruption. This provision is different from the model of imposition of sanctions in the PPLH Law which expressly states that the imposition of administrative sanctions does not relieve the person in-

charge of the business and/or activity from his responsibility for recovery and punishment (for further details, see attachment 2).

However, changes in the cooperation scheme from joint investigation to parallel investigation should not be seen as an obstacle. This is because the definition of multidoor approach in the handling of SDA-LH-related crime is not limited to the handling of criminal regime but also includes civil and administrative regimes. Therefore, these case management models with a parallel investigation approach must be seen as part of the spirit to implement the multidoor approach. Consequently, communication forum for law enforcement officers who represent the spirit of multidoor must be built regardless of the selected crime-management regime.<sup>164</sup> Through this forum, each agency can at least update its case management progress and share relevant information to support other sectors, both in technical aspect of investigation and related to the collection of instrument of evidence.

On the other hand, the implementation of joint investigations is often accompanied by regular meetings to strengthen coordination.<sup>165</sup> The Task Force 115 held regular meetings at least twice a year for the purpose of performance evaluation by the Steering Committee. In addition to routine meetings, there were meetings for the purpose of case management conducted by the Corruptor Hunting Team, Task Force 115, and Multidoor approach for any casuistic case. In the multidoor model, coordination meetings were held to achieve

163 Timothy J. Chapman, et. al., 2012, *Parallel Proceedings in Federal Environmental Crime Cases*, United States Attorneys' Bulletin, Vol 60 No. 4, page 31.

164 For further information see pages 26-27.

165 iPROCEEDS, *Op. Cit.*, page 5

same perception of multidoor and to handle instrument of evidence. In general, there is only one instrument of evidence in one case that will be used by several agencies, so that it is necessary to have specific mechanism for the use of instrument of evidence jointly. It is important for the research prosecutor to attend the coordination meeting in order to provide directives related to the case filing. Therefore, it does not take too long for the file submitted by the investigator to be declared complete (P-19).

### **JOINT KNOWLEDGE**

The establishment of a knowledge center is intended to centralize the process of gathering and analyzing information, both operational and strategic, for the institutions involved. The data and information collected in this center for excellence can be accessed by each agency. Accordingly, law enforcement officials may gain knowledge and experience on particular legal issues, resulting in specialization that can increase the effectiveness of case management. Cost savings can also be achieved, as the costs of data collection, processing and analysis can be shared between participating institutions.

Task Force 115 built Puskodal 115 which combines the KKP, Bakamla and TNI AL databases. This platform is important to complete the data of each agency which remain limited, for example, the KKP data only covered list of vessels with large cargoes ( $\geq 30$  GT) and which have transmitter. KKP then collaborated with Global Fishing Watch related to marine and fishery data. The police force recommended that the scope of the database should be expanded with administrative data such as progress

of regulations related to the prosecution of fishery crime. This is driven by the uneven distribution of information related to sectoral regulations issued by the relevant agencies, so that the law enforcement process is carried out without taking the most recent provisions of law into account. Not only that, difference in interpretation regarding legal provisions between law enforcement agencies on the substance of regulations has also been a crucial issue in the case management.

Another model of institutionalization of knowledge can be found in the context of corruption and money laundering case management, information exchange related to LHA (Analysis Result Report) and LHP (Audit Report) on financial transactions carried out through Secure Online Communication, limited to the Directorate General of Taxes and the KPK. The use of such platform ensures the confidentiality and security of the information exchanged. In 2021 PPATK plans to use the Go AML platform which was developed by UNODC and has been used by several other countries. On the other hand, PPATK has cooperated with several K/L such as the Ministry of Home Affairs and the Ministry of Law and Human Rights regarding access to population database and legal entities as supporting data in analyzing financial transactions.

As explained in the previous chapter, the cooperation between the KPK and PPATK is carried out using two models, namely inquiry and proactive. These two models are in line with two of four OECD findings related to the classification of information exchange cooperation model in the field of financial crime, namely:<sup>166</sup>

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166 OECD, 2017, *Op. Cit.*, page 13.

- 1) Direct access to information existing in the relevant agency's database
- 2) Obligation to directly report the relevant information
- 3) Ability (but not obligatory) to provide information proactively
- 4) Ability and obligation to provide information according to request

Based on the classification, the OECD notes that a proactive exchange of information will be effective if inter-agency cooperation has been longstanding, and there is a common perspective regarding the information required by the agency receiving information. On the other hand, proactive information is not necessarily effective if the agency receiving information is not familiar with detailed information and does not yet have the capacity to use the information exchange system.<sup>167</sup>

In the Indonesian context, PPATK is widely involved by investigators to provide assistance in the case exposes, to subsequently translate the LHA and LHP into legal language according to the alleged offense. From the dissemination process in the case exposes, an in-depth investigation of other parties suspected of being involved is often conducted, resulting in a new LHA and LHP. At the same time, in the context of the Corruptor Hunting Team, there has no special platform for data exchange to support the implementation of the team's tasks. However, for several K/L that have signed MoU with Jamintel, data exchange is carried out in accordance with the agreed scope. The data exchange platform is also

not available in the multidoor coordination model, which until recently still uses the manual method by correspondence.

On the other hand, the case tracking system to facilitate monitoring of the progress of law enforcement performance is increasingly needed. Until now, the case tracking platform is still limited to law enforcement agencies such as the Police, the Attorney General's Office, the Supreme Court and the Directorate General of Correctional Institution through the SPPT-TI framework. PPNS who is also an important part of sectoral law enforcement efforts has not been involved in the platform. Moreover, the PPNS in the SDA-LH sector does not also have an independent case tracking system in their respective agency. Therefore, all progress in law enforcement performance is still recorded manually.

## **JOINT TRAINING**

The training program involving personnel from several institutions encourages relationship building, exchange of information and learning from the experiences of other personnel in handling cases. This process also allows personnel to identify the indicators of the type of crime they are not dealing with, so that if there is a crime outside their jurisdiction, they will recognize the agency to delegate the case.

In order to strengthen the capacity of law enforcement officers in dealing with fishery-related crime, the KKP, Polri and Task Force 115 executed an agreement to establish the International FishFORCE Academy of Indonesia (IFFAI) in 2016. To date, 4 IFFAI trainings have been held in which the training participants not only come from domestic law

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167 *Ibid.*

enforcement agencies but also from overseas agencies, namely from Maritius, Namibia, Mozambique, Madagascar, and Tanzania. In addition, Indonesia has been part of the Joint Declaration on Transnational Organized Crime in the Global Fishing Industry with 18 other countries. Through this declaration, Indonesian law enforcement officers are required to have a mindset to apply a multi-legal regime approach by putting more focus on inter-agency cooperation both at home and abroad. In addition, to break the network of criminals, accountability must be imposed not only on the field perpetrators but also on corporations, masterminds and beneficial owners.

In the multidoor approach, the parties to the Memorandum of Understanding and the Supreme Court attempt to agree on the same perspective in the case management by holding a National Workshop and Training on Handling of Forest and Land Fires with a Multidoor Approach.<sup>168</sup> These activities were carried out in three areas from March to June 2016.<sup>169</sup> After 2016, there was no special training for handling cases using multidoor approach, so that the relevant agencies was not familiar enough with multidoor perspective.

## **JOINT COMMITTEE**

The establishment of a joint committee is intended to coordinate policies on aspects of authority that are handled together.

The Corruptor Hunting Team adopted joint committee scheme consisting of representatives of the Ministry of Law and Human Rights, the Attorney General's Office, the Ministry of Foreign Affairs, and PPAK, and was led by the Deputy Attorney General. Task Force 115 also adopted the similar scheme involving various agencies, including the KKP, the National Police, the Attorney General's Office and the National Navy. It is necessary to note that the involvement of the national police in the investigation of fishery crime is the impact of amendments to the Fishery Law, whereby the previous law provided that the investigation shall only be carried out by PPNS and the National Navy.

In the SPPT-TI framework, joint committee is classified into three working groups as follows:

- 1) Business process and data (probita) working group which formulates the flow of process, type of document and elements of data being exchanged.
- 2) Center for data exchange (puskarda) working group which has duty to conduct development and commissioning of the SPPT-TI dashboard.
- 3) Technical and security support (dutekam) working group which has duty to ensure security of client application system and puskarada including by data encryption.

The implementation of tasks by these three working groups is monitored by a steering team consisting of echelon two officials from each agency involved in the SPPT-TI. On the other hand, the existence of non-technical K/L such as Bappenas and Kemenkopolkum has a crucial role in the development of SPPT-

168 Richaldo Y Hariandja, 2016, "Intensify Multidoor Approach, Media Indonesia (Intensifikan Pendekatan Multidoor, Media Indonesia)", <https://mediaindonesia.com/read/detail/31464-intensifikan-pendekatan-multidoor>

169 Muhammad Yunus, 2016, Progress of REDD+ Transitional Phase of RI-Norway Cooperation: Law Enforcement Component, Director General of Environmental and Forestry Law Enforcement, KLHK (Progress REDD+ Fase Transisi Kerja sama RI-Norway: Komponen Penegakan Hukum, Dirjen Penegakan Hukum Lingkungan Hidup dan Kehutanan, KLHK), [http://ditjenppi.menlhk.go.id/reddplus/images/resources/redd\\_id\\_day/rimbawan1/3REDD\\_Penegakan\\_Hukum.pdf](http://ditjenppi.menlhk.go.id/reddplus/images/resources/redd_id_day/rimbawan1/3REDD_Penegakan_Hukum.pdf)

TI. Bappenas' duty is to coordinate planning and budgeting, to perform monitoring and evaluation, data quality assessment, compiling the SPPT-TI 2020-2024 grand design, and seeking support from development partners for consulting purpose. Kemenkopohukam has also a strategic role to coordinate the development and implementation of SPPT-TI.

In the context of coordination between the KPK and PPATK, the two agencies are represented by the directorate who is in-charge of cooperation which functions as a Liaison Officer. In this case, the KPK is represented by the Directorate of Inter-

Commission Network Development and the PPATK is represented by the Directorate of Cooperation and Public Relations. At the same time, despite involvement of several state agencies, the cooperation model with a multidoor approach is not accompanied by the formation of a joint committee to coordinate multidoor policies after the entering into force of the Memorandum of Understanding and Joint Regulations. Consequently, there is no follow-up framework for the SDA-LH law enforcement in a multidoor framework.

**Table 4.5. Comparison of Inter-Agency Coordination Mechanism**

No	Coordination Model	Joint Investigation	Joint Knowledge	Joint Training	Joint Committee	Liaison Officer
1.	Corruptor Hunting Team	<ul style="list-style-type: none"> <li>- Carried out by the Attorney General's Office and the National Police, along with the Ministry of Law and Human Right and the Ministry of Home Affairs.</li> <li>- Meetings are held for the purpose of case handling.</li> </ul>	Not available	Not available	Establishment of joint committee led by the Deputy Attorney General	Not available
2	Task Force 115	<ul style="list-style-type: none"> <li>- Carried out by KKP, Water Police (Polair), and the Indonesian Navy.</li> <li>- Meetings are held for the purpose of case handling.</li> </ul>	Puskodal 115	Available	Establishment of joint committee led by the Minister of KP	Not available

No	Coordination Model	Joint Investigation	Joint Knowledge	Joint Training	Joint Committee	Liaison Officer
3.	<i>Multidoor</i>	<ul style="list-style-type: none"> <li>- Carried out by (in practice carried out with the Ministry of ATR/BPN)</li> <li>- Meetings are held for the purpose of case handling.</li> </ul>	Not available	Implemented by KLHK, the National Police, the Attorney General's Office and the Supreme Court.	There is no joint committee	Not available
4.	SPPT-TI	<ul style="list-style-type: none"> <li>- There have been regular meetings to discuss progress and evaluate the SPPT-TI database.</li> </ul>	Dashboard SPPT-TI	#	Establishment of joint committee, which is divided into three working groups	Not available
5.	Cooperation between KPK and PPATK	#	Secure Online Communication	#		available

# CHAPTER V

## CONCLUSIONS AND RECOMMENDATIONS

### A. CONCLUSIONS

Public opinion confirms that cooperation is needed to solve problems more effectively and efficiently. The old adage which reads “Many hands make light work”, illustrates that for any problems that arise, it would be better if they were solved together. In the trajectory of human history, there has been abundant evidence that victory mostly goes to a party if they work together better. Thus the Romans conquered Greece, not because the Romans had a bigger brain or because they were smarter in tool-making techniques, but because they were able to work together in a more effective manner.<sup>170</sup>

In the government administration affairs, coordination is a requirement that naturally arises because of a situation or problem that must be solved by involving more than one jurisdiction and/or an issue which must be addressed using expertise, data and information available in more than one agency. In such situation, it is impossible to solve the problem or to achieve an objective without coordination between the parties.

However, coordination is not an easy thing to do and despite its successful implementation, mostly does not last long. Coordination is often misunderstood as an obstacle to

achieving the objectives of each agency. In fact, coordination actually contributes to the achievement of the objectives of each agency.<sup>171</sup> Coordination is needed because there are cross-cutting and cross-jurisdiction problems, therefore it is not possible for any agency to work individually rather than to work in cooperation or in coordination with other agencies, especially when the principles of complementary, supportive and supplementary each other are well understood as the fundamental values of collaboration.<sup>172</sup>

### LAW ENFORCEMENT COOPERATION MODELS

As described previously, the inter-agency law enforcement cooperation that has been put into practice, there are 2 (two) cooperation models, namely ‘coordination’ and ‘collaboration’. The coordination model is indicated by the complete structure and roles of each agency with its top-down approach, while the collaboration model

170 Yuval Noah Harari, *Homo Deus: Masa Depan Umat Manusia*, (Jakarta: PT Pustaka Alvabet, 2019), 5<sup>th</sup> Ed., page 153

171 Thomas H. Santon, *Improving Collaboration by Federal Agencies: An Essential Priority for the Next Administration*. (Washington DC: National Academy of Public Administration, 2007). Seen in Fredercik M. Kaiser, *Interagency Collaborative Arrangements and Activities: Types, Rationales, Considerations*. (Washington DC Congressional Research Service, 2011).

172 Malayu S.P. Hasibuan, *Management: Basics, Definitions and Problems (Manajemen : Dasar, Pengertian, dan Masalah)*, (Jakarta: Bumi Aksara, 2008), Revised Edition. Seventh Edition.

put priority to high initiative of each party because each party has parallel (equal) position. Both models have their own strengths and weaknesses.

The coordination model can be found in many law enforcement cooperation initiatives, especially in the ad hoc initiatives, such as the Law Mafia Eradication Task Force, the Corruptor Hunting Team, the Task Force for Sweeping Illegal Levies (Saber Pungli) and Task Force 115. The success of the coordination model is largely determined by 3 (three) elements, namely the leadership or a coordinator who has a clear vision, an adequate budget and a clear division of roles and responsibilities (mechanisms). The coordination model can so far, be adopted to deal with one problem only because of its very formal character with a structure, leadership and budget that is centralized on one K/L. From this point of view, one can also see the weakness of the coordination model, namely if the K/L serving as the coordinator within the framework of the cooperation suffers a setback, all coordinative activities will be wholly incapable of movement.

Another cooperation model is 'Collaboration'. So far, the collaboration model can only be found in any cooperation established to handle the SDA-LH-related crimes with a multidoor approach. Unlike the coordination model, the collaboration model can be applied to various sectoral problems. Based on its more informal nature, the parties involved in a collaboration is not lumped together to hold specific responsibilities. Rather, they are expected to participate in problem-solving efforts by playing their various relevant roles.

The implementation of the multidoor model

has not been very successful because of uneven distribution of resources and budget availability from each party involved. In addition, the informal characteristics inherent in the collaboration model require the willingness of each party to keep their commitment, rather than the responsibilities to make report to the leader as the coordinator of cooperation as in the coordination model. To date, collaborative law enforcement activities remain persists, despite their less optimal performance. This is because activities in the collaboration are performed based on awareness of the importance of working together, instead of the funding.

### **ESTABLISHMENT OF COORDINATION (COOPERATION) FRAMEWORK**

A cooperation or coordination initiative can be undertaken and run optimally if the agency takes the coordination framework into account, ranging from the formulation of the objectives of the establishment of coordination initiative to the mapping of incentives obtained by each party who will take part in the coordination. Furthermore, it is necessary to ensure that the supporting elements of coordination are available and to formulate the coordination mechanism as the main element.

The objectives of coordination are the most important thing to formulate as a foundation. Clear objectives can lead the person in-charge of the formulation to construct proper elements of coordination at a later date. The objectives can be formulated coincide with the mapping of benefits or incentives that will be obtained by each party who is going to involve in the coordination mechanism. Incentive mapping is very important in order

to gather support and commitment to carry out coordination.

Some of the coordination models are considered less optimal partly due to the lack of clear objectives when the activity of coordination is carried out. This can be seen in the model adopted the Law Mafia Task Force, where the position of the Task Force in the corruption crime management has not been well defined when it comes to the existence of similar authorities in existing law enforcement agencies. Similarly, unclear criteria for the case handled by the Corruptor Hunting Team has adversely impact on the effectiveness of the team’s performance, considering that there is the KPK with its similar authority, in addition to the corruptor hunting team. ICMBIO have also had similar

experience in enforcing the environmental law in Brazil when the general criminal law enforcement agency is considered more trustworthy in carrying out law enforcement duties than ICMBIO.

As one of the pre-conditions, incentive must be clearly identified with the parties involved in the coordination. Although each agency will perceive different incentives for coordination (savings, problem solving, political gain, increasing professionalism and reducing uncertainty), it is necessary for each agency to at least receive one of the various incentives.

**Image 5.1. Process for the Formation of Coordination Framework**



In practice, examination of the elements of coordination, both supporting and primary elements, can demonstrate the elements with major influence to optimally run coordination as indicated in the below image. The coordination mechanism is the most critical aspect in carrying out coordination activities, where there is clear division of tasks and roles between the

agencies involved. This will also minimize the overlapping of authority and institutional sectoral ego that often appears in various forms of inter-agency cooperation.

As a supporting element, leadership is an element that must exist to ensure that coordination initiative can work optimally to achieve its goals. Task Force 115 applied a

leadership model that relies on figure that has a clear vision and integrity. On the other hand, the absence of leadership in coordination has made the multidoor collaboration model moves without direction and control. However – in the last few cases – the role of the KPK which was often involved in several multidoor site operations<sup>173</sup> could keep up good synergy between the agencies involved. Leadership is therefore proven highly needed if it is able to trigger and accelerate coordination in order to break the deadlock, instead of the controlling role of the leadership.

The next supporting element is the organizational structure, legal framework and budget – which in practice, can be subject to a number of adjustments. For example, different organizational structure of a number of agencies authorized to enforce law in the SDA-LH sector will not directly restrict the creation of coordination. Similarly, the legal framework for building coordination differs from one model to another. One model is built under Presidential Regulation, while the others are sufficiently formed by virtue of an inter-agency MoU. Moreover, coordination can take place without any legal framework – of course, in good faith to immediately form a future legal framework to ensure the sustainable cooperation. On the other hand, as the important element in the implementation of inter-agency cooperation, budget can practically be subject to adjustment to make it in line with the dynamics in the field. Furthermore, budget can also give rise to a new coordination initiative such as the multidoor collaboration model. For example, the Ministry of ATR/BPN and KKP were not previously included in the parties to the MoU, but due

to the strong political will of the Ministry of Environment and Forestry accompanied with the adequate budget, the two ministries could be included in a particular initiative carried out in several phases.

## B. RECOMMENDATIONS

Law enforcement coordination (cooperation) that has been (and is currently) taking place inspires agencies to formulate a more practicable and sustainable coordination model of law enforcement in the SDA-LH sector. Given the weaknesses and strengths of each element of coordination and overview of coordination practices in several countries, before deciding the model of cooperation to be adopted, it is important to first find out the mutual benefits to be perceived. The benefits at least include as follows: (1) joint problem solving; (2) increasing professionalism; and (3) preventing uncertainty. The benefits to be perceived by the parties to coordination do not necessarily include all the aforementioned items, as one of them has been sufficient. It will be difficult to realize cooperation if the agencies involved in the initiative to the cooperation do not received any benefits.

If each party has been sure of the benefits of the cooperation framework, the appropriate cooperation model is determined. In the context of law enforcement in the SDA-LH sector, both the “Coordination” and “Collaboration” models have their own weaknesses and strengths as described above. The following table describes the items to be considered when selecting one of the law enforcement cooperation models in the future.

<sup>173</sup> Such as in the Tegal Mas case in Lampung.

**Table 4.5. Comparison of Inter-Agency Coordination Mechanism**

Elements of Cooperation	'Coordination'	'Collaboration'
1. Legal framework	Must be in the form of regulation which binds to all K/L, at least in the form of Presidential Regulation (Perpres) including coordination hierarchical structure and roles of each agency.	Although not mandatory, it still requires a legal framework to bind the commitment of the parties, at least in the form of a Memorandum of Understanding (MoU);
2. Leadership	Needs leadership (coordinator) from one of the leaderships of K/L or law enforcement agencies. Given various authorities of K/L in the SDA-LH sector, the leadership issue in the coordination framework must take into account leadership dualism in law enforcement in the implementation thereof.	A strong, independent, and visionary leadership (accelerator) is needed. Considering that the responsibility of each party lies with the K/L leadership, a leadership figure who can bridge a number of problems that arise in collaborative activities (debottlenecking) is needed;
3. Budget	Budget is allocated in centralized account of the agency authorized to act as the leading sector, which covers the overall needs of team's operations, including for coordinative activities.	Special budget is needed for supporting law enforcement in each K/L, by including the budget for coordination purposes in addition to the budget for the law enforcement process
4. Organizational structure (internal)	It is necessary to add functional position of PPNS without reformulating the organizational structure of PPNS in each K/L.	It is necessary to strengthen the role and position of PPNS, especially in agencies that do not yet have a special structural position for the SDA-LH law enforcement affairs. Reformulating the organizational structure of PPNS in the framework of revising regulations governing the positions of PPNS. In this case, it is necessary to consider attaching a functional position to the PPNS.

Elements of Cooperation	'Coordination'	'Collaboration'
5. Cooperation structure (external)	It is necessary to clarify the parties to involve including the level of position to be part of the coordinative structure which later will become top-down approach. In addition, it is necessary to select the highest official who will be authorized to give instruction in the context of law enforcement in the SDA-LH sector.	It is necessary to appoint an official as the Person in-charge of each K/L who can make decision in the collaborative duties.
6. Cooperation mechanism	It is necessary to have a clear mechanism which covers the role of each member of coordination who is formally assigned by each K/L. In addition, mechanism for reporting activities must be confirmed to each superior in the coordination structure.	It is necessary to have a clear mechanism which covers the role of each agency and the flow of collaboration, for example in conducting a separate joint investigation (parallel investigation). Furthermore, it is necessary to consider assigning a Liaison Office (L.O) in each K/L, so that communication can be more focused.
7. Data and information management	Formation of an integrated database which includes various sectoral data to support law enforcement including the fast and secured flow of data exchange.	

The seven recommendations are then classified into two categories, namely medium-term and long-term recommendations as follows:

Medium-Term Recommendations	Long-Term Recommendations
<ul style="list-style-type: none"> <li>Preparing Memorandum of Understanding as the legal framework for the inter-agency cooperation in the context of law enforcement against SDA-LH-related crimes.</li> </ul>	<ul style="list-style-type: none"> <li>Reformulating PPNS organizational structure by revising regulation on the PPNS position and by considering the PPNS functional position option.</li> </ul>
<ul style="list-style-type: none"> <li>Appointing a leadership that is able to remove a number of problems arising in the collaboration activity (debottlenecking).</li> </ul>	<ul style="list-style-type: none"> <li>Encouraging efforts to put priority for law enforcement, including budget for coordination in the budgeting plan and policy of each agency.</li> </ul>
<ul style="list-style-type: none"> <li>Formulating a mechanism which specifically states the roles and flow of cooperation in order to support the sense of ownership and responsibility of each agency.</li> </ul>	
<ul style="list-style-type: none"> <li>Appointing a Liaison Officer (L.O) in each agency to ensure a more focus communication.</li> </ul>	
<ul style="list-style-type: none"> <li>Developing a spatial-based integrated database encompassing various sectoral data to support law enforcement efforts.</li> </ul>	

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**ATTACHMENT 1. INTER-AGENCY COORDINATION MODEL MAPPING IN LAW ENFORCEMENT**

No.	Form of Coordination	Legal Framework for the Establishment	Institutions engaged	Organizational Structure	Coordination Mechanism	Budget	Status
1.	Law Mafia Eradication Task Force (Task Force)	Presidential Decree No. 37 of 2009 regarding Law Mafia Eradication Task Force	<ul style="list-style-type: none"> <li>• UKP4</li> <li>• The President’s Special Staff</li> <li>• Public Prosecutor’s Office</li> <li>• National Police</li> <li>• Center for Financial Transaction Reporting and Analysis (PPATK)</li> </ul>	<ul style="list-style-type: none"> <li>• Chairperson concurrently</li> <li>• Member</li> <li>• Secretary concurrently</li> <li>• Member</li> </ul>	<ul style="list-style-type: none"> <li>• Quarterly Report to the President</li> <li>• External coordination of other law enforcement agencies</li> <li>• Proposal for follow up to findings to law enforcement agencies, particularly the National Police and Public Prosecutor’s Office</li> </ul>	DIPA of the Ministry of the State Secretariat	Expired

No.	Form of Coordination	Legal Framework for the Establishment	Institutions engaged	Organizational Structure	Coordination Mechanism	Budget	Status
2.	Task Force 115 KKP	<p>Presidential Regulation No. 115 of 2015 regarding Task Force for Illegal Fishing Eradication</p> <p>Bilateral MoU</p>	<ul style="list-style-type: none"> <li>• KKP – Inspector General, Director General of Capture Fishery, Directorate General of PSDKP;</li> <li>• Indonesian Navy;</li> <li>• National Police – Directorate of Water Police (<i>Ditpolair</i>), Security Maintenance Agency, Directorate of Certain Crimes of Criminal Investigation Agency (<i>Dit. Tipiter Bareskrim</i>)</li> <li>• Attorney General’s Office – Natural Resources Task Force;</li> <li>• Marine Security Agency (<i>Bakamla</i>)</li> <li>• Financial and Development Supervisory Board (BPKP) – Directorate of Production and Natural Resources Supervision</li> <li>• Ministry of Finance – Directorate General of Taxes, Directorate General of Customs and Excise</li> <li>• Ministry of Foreign Affairs – Directorate General of International Law and Convention</li> <li>• Ministry of Transportation – Directorate General of Sea Transportation, Center for Sea Transportation Research and Development</li> <li>• Center for Financial Transaction Reporting and Analysis (PPATK) – Deputy for Eradication Affairs</li> </ul>	<ul style="list-style-type: none"> <li>• Task Force Commander (Minister of Marine Affairs and Fisheries);</li> <li>• Chairperson of Daily Executive Officer (Deputy Chief of Staff of the Indonesian Navy)</li> <li>• Deputy Chairperson of Daily Executive Officer 1; Chief of Marine Security Agency (<i>Bakamla</i>)</li> <li>• Deputy Chairperson of Daily Executive Officer 2; Chief of Security Maintenance Agency of the National Police</li> <li>• Deputy Chairperson of Daily Executive Officer 3: Junior Attorney General for General Crimes (<i>Jampidum</i>), Attorney General’s Office</li> </ul>	<ul style="list-style-type: none"> <li>• Quarterly Report to the President</li> <li>• Joint Operation</li> <li>• Coordination Meeting (<i>Rakor</i>)</li> <li>• PUSKODAL (Digital Data Sharing)</li> </ul>	DIPA of the KKP	Functions of the Task Force are returned to the Internal of KKP

No.	Form of Coordination	Legal Framework for the Establishment	Institutions engaged	Organizational Structure	Coordination Mechanism	Budget	Status
3.	Task Force for Sweeping Illegal Levies (Satgas Saber Pungli)	Presidential Regulation No. 87 of 2016 regarding Task Force for Sweeping Illegal Levies jo. Decree of the Coordinating Minister for Political, Legal and Security Affairs Number 34 of 2019 regarding Work Group and Secretariat for Task Force for Sweeping Illegal Levies.	<ul style="list-style-type: none"> <li>Coordinating Ministry for Political, Legal and Security Affairs (<i>Kemenkopolhukam</i>)</li> <li>National Police of the Republic of Indonesia;</li> <li>Attorney General's Office;</li> <li>Ministry of Home Affairs;</li> <li>Ministry of Law and Human Rights;</li> <li>Center for Financial Transaction Reporting and Analysis (PPATK);</li> <li>Ombudsman</li> <li>State Intelligence Agency;</li> <li>Military Police of the National Police of Indonesia.</li> </ul>	<ul style="list-style-type: none"> <li>Controlling Official/ Official in-charge: Coordinating Minister for Political, Legal and Security Affairs (<i>Menkopolhukam</i>)</li> <li>Chief Executive: Inspector General (<i>Irwasum</i>) of the National Police of RI</li> <li>Deputy Chief Executive 1: Inspector General of the Ministry of Home Affairs (<i>Kemendagri</i>)</li> <li>Deputy Chief Executive 2: Junior Attorney General for Supervision</li> <li>Secretary; Expert Staff within the Coordinating Ministry for Political, Legal and Security Affairs (<i>Kemenkopolhukam</i>)</li> <li>Members:</li> </ul>	<ul style="list-style-type: none"> <li>Ministries/Institutions and egional governments form unit for illegal levy eradication whose duties are implemented in coordination with the Task Force for Sweeping Illegal Levies (<i>Satgas Saber Pungli</i>)</li> <li>Quarterly Report to the President</li> <li>Coordination Meeting</li> </ul>	DIPA of the Kemenkopolhukam	Expired

No.	Form of Coordination	Legal Framework for the Establishment	Institutions engaged	Organizational Structure	Coordination Mechanism	Budget	Status
4	TPPU Committee	Presidential Regulation No. 6 of 2012 regarding National Coordinating Committee for Prevention and Eradication of Criminal Act of Money Laundering jo. Presidential Regulation No. 117 of 2016 on Amendments to Presidential Regulation No. 6 of 2012.	<ul style="list-style-type: none"> <li>• Coordinating Ministry for Political, Legal and Security Affairs;</li> <li>• Coordinating Ministry for Economic Affairs;</li> <li>• Center for Financial Transaction Reporting and Analysis (PPATK);</li> <li>• Ministry of Foreign Affairs</li> <li>• Ministry of Home Affairs</li> <li>• Ministry of Finance</li> <li>• Ministry of Law and Human Rights</li> <li>• Ministry of Trade</li> <li>• Ministry of Cooperatives and Small and Medium-Scale Enterprises</li> <li>• Bank Indonesia</li> <li>• Financial Services Authority</li> <li>• Attorney General's Office</li> <li>• National Police of the Republic of Indonesia;</li> <li>• State Intelligence Agency (BIN);</li> <li>• Anti-Terrorism National Agency (BNPT)</li> <li>• National Anti-Narcotics Agency</li> </ul>	<ul style="list-style-type: none"> <li>• Chairperson: Minister for Political, Legal and Security Affairs (<i>Menkopolhukam</i>)</li> <li>• Deputy Chairperson: Coordinating Minister for Economy</li> <li>• Secretary concurrently Member: Head of PPATK</li> <li>• Members:</li> </ul>	<ul style="list-style-type: none"> <li>• Coordination Meeting at least once every 1 (one) year or at any time if necessary</li> <li>• Coordination Meeting of the Implementation Team at least once every 6 (six) months or at any time if necessary</li> <li>• Secretariat is functionally run by a working unit within the PPATK.</li> </ul>	DIPA of the PPATK	

No.	Form of Coordination	Legal Framework for the Establishment	Institutions engaged	Organizational Structure	Coordination Mechanism	Budget	Status
5	TPPO Task Force	Presidential Regulation No. 69 of 2008 regarding Task Force for the Prevention and Handling of Trafficking in Persons jo. Regulation of the Minister of Women Empowerment and Children Protection No. 11 of 2012.	<ul style="list-style-type: none"> <li>Coordinating Ministry for Human Development and Cultural Affairs (PMK),</li> <li>Ministry of Women Empowerment and Child Protection (PPA),</li> <li>Ministry of Home Affairs;</li> <li>Ministry of Foreign Affairs;</li> <li>Ministry of Religion Affairs;</li> <li>Ministry of Law and Human Rights;</li> <li>Ministry of Transportation;</li> <li>Ministry of Manpower;</li> <li>Ministry of Social Affairs;</li> <li>Ministry of Health;</li> <li>Ministry of Education and Culture;</li> <li>Ministry of Tourism;</li> <li>Ministry of Communication and Informatics;</li> <li>National Development Planning Board (<i>Bappenas</i>);</li> <li>Ministry for Youth and Sports;</li> <li>National Police;</li> <li>Public Prosecutor's Office;</li> <li>National Board on the Placement and Protection of Indonesian Overseas Workers (BNPTKI);</li> <li>State Intelligence Agency (BIN);</li> <li>Central Statistics Bureau (BPS)</li> </ul>	<ul style="list-style-type: none"> <li><b>Central Task Force</b> <ul style="list-style-type: none"> <li>- Chairperson: Coordinating Ministry for Human Development and Cultural Affairs (Kemenko PMK)</li> <li>- Daily Executive: Ministry of Women Empowerment and Child Protection (PPA)</li> <li>- Members</li> </ul> </li> <li><b>Sub-Task Force:</b></li> <li><b>Secretariat</b></li> <li><b>Provincial Task Force</b></li> <li><b>Regency/ Municipality Task Force</b></li> </ul>	<ul style="list-style-type: none"> <li>National coordination is conducted by the Central Task Force, followed by the Provincial Task Force and Regency/Municipality Task Force, at least once in a year</li> <li>Plenary coordination is attended by all members of Central Task Force and conducted in a quarterly basis</li> <li>Evaluation of the duty implementation, including annual evaluation, mid-term evaluation and end of period evaluation that can be conducted internally and/or by involving any third party</li> </ul>	<ul style="list-style-type: none"> <li>State Budget and Regional Budget (APBN and APBD):</li> <li>Social Disaster Fund (Dana Bencana Sosial) or Indirect Spending Fund (Dana Belanja Tidak Langsung) on Social Service Account Code: The Social Disaster Fund can also be utilized to help the TPPO victims.</li> </ul>	

No.	Form of Coordination	Legal Framework for the Establishment	Institutions engaged	Organizational Structure	Coordination Mechanism	Budget	Status
6	Corruptor Hunting Integrated Team	Decree of the Coordinating Minister for Political, Legal and Security Affairs Number Kep-54/Menko/Polhukam/ 12/2004 regarding Integrated Team for the Hunting of Convicted and Suspected Corruption Crimes.	<ul style="list-style-type: none"> <li>• Ministry of Law and Human Rights;</li> <li>• Attorney General's Office;</li> <li>• Ministry of Foreign Affairs;</li> <li>• Center for Financial Transaction Reporting and Analysis (PPATK);</li> </ul>	<ul style="list-style-type: none"> <li>• Chairperson: Deputy Attorney General</li> </ul>	<ul style="list-style-type: none"> <li>• Coordination Meeting</li> <li>• Joint investigation</li> </ul>		
7	Investment Alert Task Force	Decision of Board of Commissioners Financial Services Authority (OJK) No: 01/KDK.01/2016 regarding Coordination for Prevention and Handling of Alleged Unlawful Act in the Field of Public Fund Collection and Investment Management.	<ul style="list-style-type: none"> <li>• Financial Services Authority (OJK);</li> <li>• Ministry of Trade;</li> <li>• Investment Coordinating Board (BKPM)</li> <li>• Ministry of Cooperatives and Small and Medium-Scale Enterprise;</li> <li>• Ministry of Communication and Informatics;</li> <li>• Public Prosecutor's Office,</li> <li>• National Police of the Republic of Indonesia</li> </ul>	<ul style="list-style-type: none"> <li>• Chairperson: Representative of OJK</li> </ul>	<ul style="list-style-type: none"> <li>• Secretariat of Task Force located in the OJK</li> <li>• Coordination Meeting</li> </ul>		

No.	Form of Coordination	Legal Framework for the Establishment	Institutions engaged	Organizational Structure	Coordination Mechanism	Budget	Status
8.	Multidoor SDA	<p>Memorandum of Understanding among the Ministry of Forestry, the Ministry of Environment, the Ministry of Finance, Public Prosecutor's Office, National Police, and PPATK</p> <p>1. No. NK 8/Menhut-II/2012                      2. 01 Tahun 2012                      3. MoU-11/MK/0.11/2012                      4. 176/A/JA/12/2012                      5. B/50/XII/2012                      6. NK-59/1.02/PPATK/2012</p> <p>regarding Improved Law Enforcement-related Cooperation for Supporting Sustainable Natural Resources Management in the context of REDD+</p>	<ul style="list-style-type: none"> <li>• Ministry of Forestry;</li> <li>• Ministry of Environment;</li> <li>• Ministry of Finance;</li> <li>• Public Prosecutor's Office,</li> <li>• National Police of the Republic of Indonesia, and</li> <li>• Center for Financial Transaction Reporting and Analysis (PPATK);</li> </ul>	<ul style="list-style-type: none"> <li>• There is no organizational structure in the multidoor coordination model against the SDA-LH crimes.</li> </ul>	<ul style="list-style-type: none"> <li>• Circular Letter of the Attorney General's Office (SEJA) No. SE-004/A/JA/02/2009 on Coordination between Public Prosecutor and Investigator from the issuance of SPDP through Coordination Forum and is set out in the Minutes of Coordination</li> <li>• Coordination pattern consists of vertical and horizontal coordination pattern</li> <li>• Vertical Coordination Meeting for Supervision</li> <li>• Horizontal: - Between PPNS and other PPNS:</li> <li>• If there is TP SDA-LH relating to the other PPNS authority, coordination with the PPNS Surveillance Coordinator (<i>Korwas</i>) must be immediately made for further meeting the relevant PPNS and the National Police investigator of</li> <li>• The <i>Korwas</i> organizes meeting to discuss the distribution of duties and cooperation pattern in the case management a</li> <li>• PPNS performs investigation in accordance with the duties and functions and submits its progress report before the coordination meeting of <i>apgakum</i></li> <li>• The Coordination Meeting can involve PPATK in case of there is indicated TPPU in the case handled</li> </ul>	DIPA of each K/L	Still valid

No.	Form of Coordination	Legal Framework for the Establishment	Institutions engaged	Organizational Structure	Coordination Mechanism	Budget	Status
9.	Coordinating Team for Eradication of Criminal Act of Corruption	Presidential Decree No. 11 of 2005 regarding Coordinating Team for Eradication of Criminal Act of Corruption.	<ul style="list-style-type: none"> <li>Public Prosecutor's Office</li> <li>National Police of the Republic of Indonesia;</li> <li>Financial and Development Supervisory Board (BPKP).</li> </ul>	<ul style="list-style-type: none"> <li>Advisor: Attorney General, Chief of National Police, Head of BPKP</li> <li>Chairperson concurrently member: Junior Attorney General for Special Crimes (JAMPIDSUS)</li> <li>Deputy Chairperson concurrently member: Director III for Corruption Crimes and WCC, Criminal Investigation Agency of the National Police (<i>Bareskrim Polri</i>), Deputy for Investigation Affairs of BPKP</li> <li>Members: representatives of each agency</li> <li>Secretary appointed by the Chairperson of Coordinating Team for Eradication of Criminal Act of Corruption (<i>Tastipikor</i>)</li> </ul>	<ul style="list-style-type: none"> <li>Coordination is conducted in accordance with the duties and functions as well as authority of each agency</li> <li>Report progress of the duty implementation at any time to the President and report the results in a quarterly basis</li> </ul>	DIPA of the Attorney General's Office	Expired

No.	Form of Coordination	Legal Framework for the Establishment	Institutions engaged	Organizational Structure	Coordination Mechanism	Budget	Status
10.	SPPT-TI	Memorandum of Understanding among the Supreme Court, the Coordinating Ministry for Political, Legal, and Security Affairs, the National Police, Public Prosecutor's Office, the Ministry of Law and Human Rights, the Ministry of Communication and Informatics, the Ministry of National Development Planning, and the State Code Institution regarding the Development of the Information Technology-based Integrated Criminal Case Handling Database System.	<ul style="list-style-type: none"> <li>Coordinating Ministry for Political, Legal and Security Affairs,</li> <li>National Police;</li> <li>Public Prosecutor's Office,</li> <li>Supreme Court,</li> <li>Ministry of Law and Human Rights;</li> <li>National Cyber and Crypto Agency (BSSN);</li> <li>Ministry of Communication and Informatics;</li> <li>National Development Planning Board (<i>Bappenas</i>).</li> </ul>	<ul style="list-style-type: none"> <li>There is no organizational structure in this coordination type</li> </ul>	<ul style="list-style-type: none"> <li>Coordination Meeting</li> <li>Evaluation on the implementation of Memorandum of Understanding in a minimum of once (1) in a year</li> </ul>	budget is allocated to the budget item of each party	Still valid
11.	Cooperation against Money Laundering	Memorandum of Understanding between the Corruption Eradication Commission and Center for Financial Transaction Reporting and Analysis regarding Prevention and Eradication of Criminal Act of Money Laundering.	<ul style="list-style-type: none"> <li>Center for Financial Transaction Reporting and Analysis (PPATK);</li> <li>Corruption Eradication Commission (KPK).</li> </ul>	<ul style="list-style-type: none"> <li>There is no organizational structure in this coordination type</li> </ul>	<ul style="list-style-type: none"> <li>Information exchange</li> <li>Formulation of Legal product</li> <li>Interception or tapping</li> <li>Criminal acts of corruption and money laundering management</li> <li>Research and dissemination</li> <li>Education and Training</li> <li>IT system development</li> <li>Liaison officer of each agency (KPK is represented by PJKAKI and PPATK is represented by KSHM)</li> <li>Data exchange conducted online through Secure Online Communication, which contains inquiry data and proactive information.</li> </ul>		

No.	Form of Coordination	Legal Framework for the Establishment	Institutions engaged	Organizational Structure	Coordination Mechanism	Budget	Status
12.	Integrated Team for Environmental Law Enforcement	<ul style="list-style-type: none"> <li>Article 95 of Law No. 32 of 2009 regarding Environmental Protection and Management</li> <li>Memorandum of Understanding (MoU):               <ol style="list-style-type: none"> <li>11/MENLH/07/2011</li> <li>B/20/VII/2011</li> <li>Kep-156/A/JA/2011 regarding Integrated Environmental Law Enforcement.</li> </ol> </li> <li>Decision of the Supreme Court No. 18/PUU-XII/2014</li> </ul>	<ul style="list-style-type: none"> <li>Ministry of Environment (Currently KLHK)</li> <li>National Police of the Republic of Indonesia</li> <li>Public Prosecutor's Office</li> </ul>	<ul style="list-style-type: none"> <li>Coordinator: Minister of Environment (<i>MenLH</i>)</li> <li>Steering board: Elements of Leadership of the Public Prosecutor's Office, National Police and Minister of Environment (<i>MenLH</i>)</li> <li>Executive Officer: Related Technical Officials</li> <li>Secretariat: Minister of Environment (<i>MenLH</i>)</li> </ul>	<ul style="list-style-type: none"> <li>Investigating Coordination by Prosecutor</li> <li>Technical Assistance</li> <li>Security</li> <li>Data and Information Exchange</li> </ul>	DIPA of the Ministry of LH	Expired

ATTACHMENT 2. COMPARISON OF INVESTIGATION PHASE OF PPNS IN THE SDA-LH SECTOR

No	Aspects	KLHK <sup>174</sup>	ATR/BPN <sup>175</sup>	KKP <sup>176</sup>	Kementan <sup>177</sup>	ESDM <sup>178</sup>
1.	Identified crimes	<ul style="list-style-type: none"> <li>Public report</li> <li>PPNS Findings</li> <li>Caught red-handed</li> </ul>	<ul style="list-style-type: none"> <li>Public report</li> <li>PPNS Findings</li> <li>Caught red-handed</li> <li>Results of technical surveillance or special surveillance</li> <li>Results of spatial audit</li> </ul>	<ul style="list-style-type: none"> <li>Public report</li> <li>PPNS Findings</li> </ul>	<ul style="list-style-type: none"> <li>Public report</li> <li>PPNS Findings</li> </ul>	<ul style="list-style-type: none"> <li>Public report</li> <li>PPNS Findings</li> </ul>

<sup>174</sup> Peraturan Menteri Lingkungan Hidup dan Kehutanan No. 11 Tahun 2012 dan UU PPLH

<sup>175</sup> Peraturan Menteri ATR BPN No. 3 Th 2017 Tentang PPNS Penataan Ruang dan UU Penataan Ruang

<sup>176</sup> Perkap No. 6 Tahun 2010 tentang Manajemen Penyidikan dan UU Perikanan

<sup>177</sup> Perkap No. 6 Tahun 2010 tentang Manajemen Penyidikan dan UU Perkebunan

<sup>178</sup> Perkap No. 6 Tahun 2010 tentang Manajemen Penyidikan dan UU Pertambangan Minerba

No	Aspects	KLHK <sup>174</sup>	ATR/BPN <sup>175</sup>	KKP <sup>176</sup>	Kementan <sup>177</sup>	ESDM <sup>178</sup>
2.	<b>Preliminary Investigation (Penyelidikan)</b>	<p>Process for collecting materials and information, including:</p> <p>a. Crime Scene (TKP) Handling, including installing PPNSLH line and watchkeeping</p> <p>b. Crime Scene (TKP) Shots</p> <p>c. Crime Scene (TKP) Sketching</p> <p>d. Collection of instrument of evidence, including test sample, review and license document, as well as object that is used to commit crimes</p> <p>e. Witness/suspect identification</p> <p>f. Preparation of Minutes of Examination</p>	<p>Surveillance, observation, research or examination processes which include:</p> <p>a. Crime Scene (TKP) watchkeeping, including installing PPNS stripe line, TKP guard by requesting police assistance</p> <p>b. Crime Scene (TKP) handling through the TKP shots, sketching and investigation by collecting instrument of evidence, witness/suspect identification, preparation of minutes of examination</p> <p>Implementation of oversight, observation, research or inspection (<i>wasmatlistrik</i>) by requesting the National Police assistance to hold preliminary investigation and security</p>	<p>Oversight, observation, research process which includes:</p> <p>a. Crime Scene (TKP) watchkeeping</p> <p>b. Crime Scene (TKP) handling</p> <p>c. Crime Scene (TKP) investigation</p> <p>The aforementioned activities can be conducted by requesting the National Police assistance</p>	<p>Oversight, observation, research process which includes:</p> <p>a. Crime Scene (TKP) watchkeeping</p> <p>b. Crime Scene (TKP) handling</p> <p>c. Crime Scene (TKP) investigation</p> <p>The aforementioned activities can be conducted by requesting the National Police assistance</p>	<p>Oversight, observation, research process which includes:</p> <p>a. Crime Scene (TKP) watchkeeping</p> <p>b. Crime Scene (TKP) handling</p> <p>c. Crime Scene (TKP) investigation</p> <p>The aforementioned activities can be conducted by requesting the National Police assistance</p>

No	Aspects	KLHK <sup>174</sup>	ATR/BPN <sup>175</sup>	KKP <sup>176</sup>	Kementan <sup>177</sup>	ESDM <sup>178</sup>
3.	SPDP	<ul style="list-style-type: none"> <li>SPDP at the central level is issued by superior of PPNSLH Investigator of Echelon II equivalent as the PPNSLH Investigator</li> <li>SPDP at Regional/ Territorial level is issued by superior of PPNSLH Investigator of Echelon II equivalent as the PPNSLH Investigator</li> <li>Notification on the commencement of investigation is delivered to the Public Prosecutor and National Police Investigator</li> </ul>	<ul style="list-style-type: none"> <li>SPDP at the central level is issued by superior of PPNS Spatial Layout with minimum position of echelon II equivalent acting as the PPNS Spatial Layout</li> <li>SPDP at the provincial and regency/city level is issued by superior of PPNS Spatial Layout with minimum position of echelon III equivalent acting as the PPNS Spatial Layout</li> <li>Notification on the commencement of investigation is delivered to the National Police Investigator to be forwarded to the Public Prosecutor</li> </ul>	<ul style="list-style-type: none"> <li>PPNS notifies the commencement of investigation to the public prosecutor in a period of no later than 7 days from the finding of fishery-related criminal act</li> </ul>	<p>PPNS must first submit SPDP to the Public Prosecutor through the National Police Investigator. SPDP is accompanied by report of incident, investigation instruction and minutes that have been prepared. However, the PPNS can provide notification verbally or by phone, electronic mail and short message to the National Police investigator before submitting the SPDP, in order to prepare investigation assistance required by the PPNS at any time</p>	<p>PPNS must first submit SPDP to the Public Prosecutor through the National Police Investigator. SPDP is accompanied by report of incident, investigation instruction and minutes that have been prepared. However, the PPNS can provide notification verbally or by phone, electronic mail and short message to the National Police investigator before submitting the SPDP, in order to prepare investigation assistance required by the PPNS at any time</p>

No	Aspects	KLHK <sup>174</sup>	ATR/BPN <sup>175</sup>	KKP <sup>176</sup>	Kementan <sup>177</sup>	ESDM <sup>178</sup>
4.	Investigation (Penyidikan)	<ul style="list-style-type: none"> <li>Summons for witness and/or suspect</li> <li>Arrest</li> <li>Detention</li> <li>Search</li> <li>Confiscation</li> <li>Examination of witness, expert and suspect</li> <li>Prevention or deterrence</li> <li>Case file completion</li> </ul>	<ul style="list-style-type: none"> <li>Summons for witness and/or suspect Arrest in coordination and with the assistance of the National Police investigator</li> <li>Detention in coordination and with the assistance of the National Police investigator</li> <li>Search in coordination and with the assistance of the National Police investigator</li> <li>Confiscation</li> <li>Examination of witness, expert and suspect</li> <li>Reconstruction</li> <li>Prevention</li> <li>Case file completion</li> </ul>	<ul style="list-style-type: none"> <li>In the event that cases require Crime Scene (TKP) investigation, the below actions are taken: <ul style="list-style-type: none"> <li>a. looking for information, clues, instrument of evidence and identity of the suspect and victim as well as witness for further investigation purpose; and</li> <li>b. search, retrieval, collection and security of instrument of evidence, conducted using a particular method or technical assistance of investigation such as forensic laboratory, identification, forensic medical and other area of expertise <ul style="list-style-type: none"> <li>Summons for suspect/ witness</li> </ul> </li> </ul> </li> <li>Arrest in coordination and with the assistance of the National Police investigator</li> <li>Bringing in and presenting a person as suspect and/or witness his/her testimony is to be heard</li> <li>Searching fishery facility and infrastructure allegedly used in or for committing fishery-related crimes</li> <li>Interdicting, inspecting, arresting, bringing, and/ or holding the ship and/or person suspected of having committed fishery-related crimes</li> </ul>	<ul style="list-style-type: none"> <li>In the event that cases require Crime Scene (TKP) investigation, the below actions are taken: <ul style="list-style-type: none"> <li>a. looking for information, clues, instrument of evidence and identity of the suspect and victim as well as witness for further investigation purpose; and</li> <li>b. search, retrieval, collection and security of instrument of evidence, conducted using a particular method or technical assistance of investigation such as forensic laboratory, identification, forensic medical and other area of expertise <ul style="list-style-type: none"> <li>Summons for suspect/ witness</li> </ul> </li> </ul> </li> <li>Arrest in coordination and with the assistance of the National Police investigator</li> <li>Search</li> <li>Confiscation</li> <li>Examination of suspect, witness and expert</li> <li>Examination of instrument of evidence in the forensic laboratory and identification</li> <li>Case file completion</li> </ul>	<ul style="list-style-type: none"> <li>In the event that cases require Crime Scene (TKP) investigation, the below actions are taken: <ul style="list-style-type: none"> <li>a. looking for information, clues, instrument of evidence and identity of the suspect and victim as well as witness for further investigation purpose; and</li> <li>b. search, retrieval, collection and security of instrument of evidence, conducted using a particular method or technical assistance of investigation such as forensic laboratory, identification, forensic medical and other area of expertise <ul style="list-style-type: none"> <li>Summons and/or bringing in suspect/witness by force</li> </ul> </li> </ul> </li> <li>Arrest</li> <li>Search</li> <li>Inspection of facilities and infrastructure of mining business activities</li> <li>Lock out and/or confiscation</li> <li>Examination of suspect, witness and expert</li> <li>Case file completion</li> </ul>

No	Aspects	KLHK <sup>174</sup>	ATR/BPN <sup>175</sup>	KKP <sup>176</sup>	Kementan <sup>177</sup>	ESDM <sup>178</sup>	
				<ul style="list-style-type: none"> <li>• Checking the completeness and validity of document on fishery business ;</li> <li>• Taking the picture of suspect and/or instrument of evidence of fishery-related crimes</li> <li>• Detention for a maximum of 30 days</li> <li>• Confiscation</li> <li>• Examination of suspect, witness and expert</li> <li>• Examination of instrument of evidence through forensic laboratory and identification</li> <li>• Case file completion</li> </ul> <p><u>Notes:</u>  <i>Investigators submit investigation results to the public prosecutor in a period of no later than 30 days from the notification of the commencement of investigation.</i></p>			

No	Aspects	KLHK <sup>174</sup>	ATR/BPN <sup>175</sup>	KKP <sup>176</sup>	Kementan <sup>177</sup>	ESDM <sup>178</sup>
5.	Examination and delegation of case file	<ul style="list-style-type: none"> <li>If the examined case file is declared incomplete, the Investigator makes file correction</li> <li>If the file is declared complete, <b>delegation</b> of file is conducted, followed by the <b>delegation</b> of the suspect and instrument of evidence to the Public Prosecutor</li> </ul>	<ul style="list-style-type: none"> <li>If the examined case file is declared incomplete, the Investigator makes file correction</li> <li>If the file is declared complete, then <b>delegation</b> of file is conducted, followed by the <b>delegation</b> of the suspect and instrument of evidence to the Public Prosecutor</li> </ul>	<ul style="list-style-type: none"> <li>Public prosecutor must provide the investigator with their examination result notification within 5 days from the date when the investigation file is received</li> <li>If the examined case file is declared incomplete, the Investigator makes file correction in a period of no later than 10 days from the date when the file is received from the Public Prosecutor</li> <li>Investigation is deemed completed if within 5 days the public prosecutor does not return the investigation results or if prior to the expiry of the time limit, notification thereon has been provided from the public prosecutor to the investigator</li> <li>In case the public prosecutor declares that the investigation results are complete, in a period of no later than 10 (ten) days from the date when the file received from the investigator is declared complete, the public prosecutor must delegate the case to the fishery-related court</li> </ul>	<ul style="list-style-type: none"> <li>If the examined case file is declared incomplete, the Investigator makes file correction</li> <li>If the file is declared complete, then <b>delegation</b> of file is conducted, followed by the <b>delegation</b> of the suspect and instrument of evidence to the Public Prosecutor</li> </ul>	<ul style="list-style-type: none"> <li>If the examined case file is declared incomplete, the Investigator makes file correction</li> <li>If the file is declared complete, then <b>delegation</b> of file is conducted, followed by the <b>delegation</b> of the suspect and instrument of evidence to the Public Prosecutor</li> </ul>

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6.	Surveillance, control, and delegation of investigation	<ul style="list-style-type: none"> <li>Surveillance and control of investigation by:               <ol style="list-style-type: none"> <li>Superior of PPNS investigator</li> <li>PPNS Surveillance Coordinator (<i>Korwas</i>) with the help of personnel and investigating equipment, technical assistance, assistance of expert examination and assistance of coercive force</li> </ol> </li> <li>Delegation of investigation to the National Police in case:               <ol style="list-style-type: none"> <li>the case covers more than 1 jurisdiction of PPNS Investigator</li> <li>safety and geographical considerations</li> <li>the case represents a combination of certain crimes (<i>tipiter</i>) and general crimes (<i>tipidum</i>)</li> </ol> </li> </ul>	<ul style="list-style-type: none"> <li>Surveillance and control of investigation by:               <ol style="list-style-type: none"> <li>Superior of PPNS investigator through the provision of investigation direction or directives</li> <li>PPNS Surveillance Coordinator (<i>Korwas</i>) with the help of personnel and investigating equipment, technical assistance, investigation consulting assistance and assistance of coercive force</li> </ol> </li> <li>In the surveillance and control of investigation, a case expose is conducted to describe the case and action that will be, are being and have been taken in the Investigation</li> <li>Delegation of investigation to the National Police in case:               <ol style="list-style-type: none"> <li>the case covers more than 1 jurisdiction of PPNS Investigator</li> <li>safety and geographical considerations</li> <li>the case represents a combination of certain crimes (<i>tipiter</i>) and general crimes (<i>tipidum</i>)</li> </ol> </li> </ul>	<ul style="list-style-type: none"> <li>Surveillance and control of investigation by:               <ol style="list-style-type: none"> <li>Superior of PPNS investigator</li> <li>PPNS Surveillance Coordinator (<i>Korwas</i>) with the help of personnel and investigating equipment, technical assistance, assistance of expert examination and assistance of coercive force</li> </ol> </li> <li>Delegation of investigation to the National Police in case:               <ol style="list-style-type: none"> <li>the case covers more than 1 jurisdiction of PPNS Investigator</li> <li>safety and geographical considerations</li> <li>The case represents a combination of certain crimes (<i>tipiter</i>) and general crimes (<i>tipidum</i>)</li> </ol> </li> </ul>	<ul style="list-style-type: none"> <li>Surveillance and control of investigation by:               <ol style="list-style-type: none"> <li>Superior of PPNS investigator</li> <li>PPNS Surveillance Coordinator (<i>Korwas</i>) with the help of personnel and investigating equipment, technical assistance, assistance of expert examination and assistance of coercive force</li> </ol> </li> <li>Delegation of investigation to the National Police in case:               <ol style="list-style-type: none"> <li>the case covers more than 1 jurisdiction of PPNS Investigator</li> <li>safety and geographical considerations</li> <li>the case represents a combination of certain crimes (<i>tipiter</i>) and general crimes (<i>tipidum</i>)</li> </ol> </li> </ul>	<ul style="list-style-type: none"> <li>Surveillance and control of investigation by:               <ol style="list-style-type: none"> <li>Superior of PPNS investigator</li> <li>PPNS Surveillance Coordinator (<i>Korwas</i>) with the help of personnel and investigating equipment, technical assistance, assistance of expert examination and assistance of coercive force</li> </ol> </li> <li>Delegation of investigation to the National Police in case:               <ol style="list-style-type: none"> <li>the case covers more than 1 jurisdiction of PPNS Investigator</li> <li>safety and geographical considerations</li> <li>the case represents a combination of certain crimes (<i>tipiter</i>) and general crimes (<i>tipidum</i>)</li> </ol> </li> </ul>

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7.	Additional notes	Execution of administrative sanction does not discharge the person in-charge of the business and/or activity from recovery and criminal liability or Article 78 of Law on PPLH)	Violation against the spatial layout utilization as provided for in Article 61 of Law on Spatial Layout is subject to criminal sanction or administrative sanction. No particular categorization is found on when the administrative sanction or criminal sanction is prioritized leading to the doubt in the implementation thereof. According to the generally accepted principles, if the criminal sanction and administration sanction is the principal punishment ( <i>hukuman pokok</i> ), they cannot be imposed all at once.	There are different type of violations which are subject to administrative sanction and criminal sanction in the Law on Fishery	There are different type of violations which are subject to administrative sanction and criminal sanction in the Law on Plantation	There are different type of violations which are subject to administrative sanction and criminal sanction in the Law on Mineral and Coal Mining

