

# Compliance Problem within Sosek-Malindo Cooperation Regime between East Kalimantan and Sabah

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**Abstract.** Sosek Malindo cooperation is a mutual agreement between Indonesia and Malaysia that concentrated in the field of socio-economic development in border areas. The main objective of Sosek Malindo cooperation is to improve the welfare of the people who live in border areas of each country. Sosek Malindo Cooperation produces some agreements, but not all of them can be implemented, because of compliance problems. The failure was caused by several factors, among others: the limited authority of the actor, the factor of interest, in managing the agreement Sosek Malindo regime does not use persuasive methods. Moreover, it has serious implications for the implementation of agreement and actor behavior.

**Keywords:** *compliance, regime, sosek malindo*

## INTRODUCTION

International cooperation is one of the most important elements in the implementation of Indonesia foreign policy. Through international cooperation both bilaterally and multilaterally, Indonesia government is expected to take advantage of opportunities to support and implement its national development. Development is a necessity that must be done for reasons of progress and change for the better. This development became a process that always must be done by any government of a country to improve and enhance the quality of life in society [14]. The idea of development, in essence, is the idea of improving human living conditions to a level that better, more prosperous, more comfortable and more peaceful, and better ensure the survival of communities in the future. Furthermore, the study of development become more diverse and rich in terms of its scoop and focus as recently scholars of development stressed the importance of human security, a different version of security studies that emphasized on the overall wellness of individual/human rather than just mere statistics of development [1]-[3]-[10]. As well as Indonesia, the significant reason to encourage the development that does not only improve the well being of the society but also to protect them in this country is to free Indonesia from underdevelopment problem that continues to haunt the

country. The most urgent agenda is the development in the border region of Indonesia.

The border area is the districts that are geographically and demographically borders with neighboring countries. Scholars exploring the study of international border have developed vast literature on the topics which range from the issue of state's sovereignty on the border area, the relations between border and international cooperation [4]-[11], the construction of border both in physical infrastructure and in intangible perception of people's mind [2]-[9]-[12], and border administration [8].

Geographically, Indonesia has some border areas with neighboring countries, whether in the form of land and sea (outer islands). Indonesia is bordered by 10 (ten) of its neighbors, namely: India, Malaysia, Singapore, Thailand, Vietnam, Philippines, Australia, East Timor, Palau, and Papua New Guinea. On the whole border area with neighboring countries spread over 12 (twelve) provinces. But there are only 4 (four) areas that have land borders with other countries, namely: the Province of West Kalimantan, East Kalimantan Province, the province of East Nusa Tenggara, and Papua Province.

One of Indonesia's border regions that have the highest degree of activity and trade-economic interaction is the border between East Kalimantan province with the State of Sabah. This can be seen from a long traditional trade occurs between people on the border of Indonesia and Malaysia. Bilateral relationship with Malaysia is one of international cooperation that needs to be maximized by Indonesia government in attempting to catch up the opportunities. One of the bilateral cooperation that exists between Indonesia and Malaysia is Sosek Malindo forum. This partnership concentrates on the realm of socio-economic development in border areas. The main objective of Sosek Malindo agreement is to improve the welfare of the people who live in border areas of each country.

Seven Working Paper of Sosek Malindo Kalimantan-Sabah

The cross-border trade that occurred in East Kalimantan-Sabah border has a fairly high frequency. Therefore, to control the traffic of goods (the traditional trade) between the people in the border, both Indonesia and Malaysia also make an agreement to form the Border Trade

Agreement (BTA) or the "Agreement on Cross-Border Trade between the Government of Indonesia Kingdom of Malaysia." The agreement was signed on August 24, 1970, in Jakarta.

The vision of the Sosek Malindo is: "Improving the welfare of people in both regions through its Socio-Economic Malindo towards 2020." In order to support this vision, then the mission is carried out are: first, creating socio-economic and cultural conditions conducive to the welfare of their communities respective regions, secondly, enhance economic cooperation based on justice and mutual benefit and oriented environmental sustainability; third, increasing socio-cultural cooperation and empowerment through improved quality of human resources in both border regions [13].

Until the last meeting of KK / JKK Sosek Malindo regional level, the East Kalimantan Provincial Government and Sabah have agreed to implement seven programs that intended to improve the welfare of the people in the border areas of each country; Transboundary Pos (PLBL), Transboundary Inland Post (PLBD), Prevention and Combating Smuggling Activities, Social Relations, Education Sector, Health Sector, Economy and Trade [5]-[6]-[7].

The results showed that 7 (seven) working paper as agreed in the Sosek Malindo agreements between East Kalimantan-Sabah, there are still 2 (two) on an agreement that cannot be implemented in a comprehensive manner, namely: working paper 1: PLBL at Priest River (Malaysia) and Lamijung River (Indonesia); and working paper 2: PLBD in Simanggaris (Indonesia) and Serudong (Malaysia).

Non-performance 2 (two) agreement as written in above is due to the behavior of the Malaysian government who did not do development in a mutually agreed location. These conditions certainly indicate the existence of non-compliance behavior by Malaysian side to the agreement. While on the other hand, Indonesia has been trying to comply with the agreement, to realize the construction of Marine Trans-boundary Pos (PLBL) and Trans-boundary Inland Post (PLBD) in locations that have been determined. Completion of PLBL Lamijung River and the construction of supporting infrastructure such as roads, drainage and bridge toward PLBD in Simanggaris which until now still being done is evidence of the seriousness of Indonesia in implementing the agreement.

Moreover so as not to appear negative impression associated with non-compliance, the Malaysia Government then attempt to divert the issue of agreement, by seeking alternative solutions to delay/not finished building the infrastructure. For PLBL problem, the Government of Malaysia creates new offerings to cancel the Priest River port development project, and Malaysia agreed to compensate the increase in the value of trade in the Port of Tawau. Meanwhile, the Indonesian side, in this case, is the East Kalimantan provincial government has endeavored to

comply with all the agreements, to fulfill all the obligations that have been mandated in the agreement. This indicates that Indonesia has the highest degree of compliance within the treaty regime.

#### The Failure of Sosek Malindo Regime in Making a Compliance

The emergence of non-compliance problem in implementing the agreement between East Kalimantan-Sabah is not just about a lack of awareness of participants' level of agreement. But it also more because of the regime does not contain fundamental elements that can persuade participants to comply with the treaty, even without having to use the instruments of sanctions.

If we look carefully at the Sosek Malindo between Kaltim-Sabah, we cannot find the element of transparency. Almost all the points of the agreement made only based on the charge of interest of each party. So when at the time of execution, execution of agreements often have constraints such as delays and cancellations, especially if the result of agreement cannot contribute significantly to the achievement of national interests of each actor. As happened in the agreement concerning with the construction project of PLBD and PLBL are not complied by Malaysia. Yet, on the other hand, Indonesia has been running optimally on an agreement. These conditions indicate that in the Sosek Malindo Kaltim-Sabah did not contain points of agreement that can guarantee the certainty of the passage of the agreement.

There is more information can be explained that the limited capacity of participants in the treaty may be a serious constraint at the level of implementation of the agreement. Limited capacity in question is in terms of technical ability, capability bureaucracy, financial support, including the authority. These constraints limited capacity to influence the compliance mechanism on a regime. Related to Sosek Malindo East Kalimantan-Sabah, that of became the main obstacle is the limited authority possessed by the Provincial Government of East Kalimantan and Sabah State Government. Both sides realize that the areas of cooperation agreed upon in the forum KK / JKK Malindo Socio-Economic Level and the State of Sabah East Kalimantan province tend to be overly broad and exceeded the authority possessed by both parties. For PLBL development issues and PLBD program, each party had to wait for approval from the central government because it is the domain authority of the central government. Non-performance agreement and PLBD PLBL development in Malaysia border region because the central government in Kuala Lumpur did not provide consent/approval. Unlikely indeed for Sabah State Government to continue the development projects of PLBD and PLBL without support from the central government. This condition affects a compliance mechanism in the implementation of the Sosek Malindo regime.

The issue of development in the border area has become a very serious concern at the national level. For the government of the Republic of Indonesia, development in the border area is closely related to the mission of national development, especially to ensure the integrity and sovereignty of the territory, defence, and national security and improving public welfare. In order to realize these interests, the strategy which required by the government of the Republic of Indonesia is to establish international cooperation. One of the international cooperation that made by Indonesian government is Sosek Malindo. Sosek Malindo is a kind of international cooperation that has strategic significance for both countries in an effort to accelerate the process of development in border areas of each country.

In its development, Sosek Malindo at the regional level between East Kalimantan and Sabah State have agreed about 7 (seven) working paper that includes: development PLBL, PLBD program, prevention and control of smuggling activities, social relations, education, health, economy, and trade. But there are two working papers that were not done perfectly, namely: the agreement on development PLBL in Priest River and PLBD in Serudong. Non-performance of two agreements is a kind of non-compliance problem (in this case undertaken by Malaysia). Malaysia behavior has a motive of interest. For Malaysia to build infrastructure in the border area is not a primary interest. While on the other hand, Indonesia has met all the agreements of cooperation, including building facilities on the River PLBL Lamijung and PLBD in Simanggaris. Compliance behavior has been proven by completing the port development project in the Lamijung River designated as PLBL in the border region of Indonesia.

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