RESOLUTION OF THE
MINISTER OF MARINE AFFAIRS AND FISHERIES
NUMBER: 41, YEAR 2000

REGARDING

GENERAL GUIDELINES ON THE SUSTAINABLE AND
COMMUNITY-BASED MANAGEMENT OF SMALL ISLANDS

THE MINISTER OF MARINE AFFAIRS AND FISHERIES,

Considering : a. that the bio-diversity of ecosystems and the typical and
original cultural values in small islands should be properly
maintained and developed so as to improve the prosperity of
local inhabitants;

b. that small islands have strategic values as economic and safety
belts, that the management of small islands should be
regulated so as to obtain sustainable benefits by taking into
consideration the ecosystems of an archipelago;

c. that therefore, it is necessary to establish a General Guideline
on the Sustainable and Community Based Management of
Small Islands by virtue of a Ministerial Resolution;

Adhering : 1. Law No. 5 Year 1960 regarding Basic Regulation on Agrarian
Principles (State Gazette, Year 1960 No. 104, Addendum to
the State Gazette No. 2043);

2. Law No. 9 Year 1985 regarding Fisheries (State Gazette Year
1985 No. 45, Addendum to the State Gazette No. 3299);

3. Law No. 5 Year 1990 regarding Living Natural Resources
Conservation and Its Ecosystem (State Gazette Year 1990 No.
49, Addendum to the State Gazette No. 3419);

4. Law No. 9 Year 1990 regarding Tourism (State Gazette Year
1990 No. 78, Addendum to the State Gazette No. 3427);

5. Law No. 4 Year 1996 regarding Subrogation Right on Land
and Objects Related with the Land (State Gazette Year 1996
No. 42, Addendum to the State Gazette No. 3632);
6. Law No. 22 Year 1999 regarding Regional Government (State Gazette Year 1999 No. 60, Addendum to the State Gazette No. 3839);

7. Law No. 25 Year 1999 regarding Financial Balance between the Central Government and the Regional Government (State Gazette Year 1999 No. 72, Addendum to the State Gazette No. 3848);

8. Law No. 42 Year 1999 regarding Fiduciary Guarantee (State Gazette Year 1999 No. 168, Addendum to the State Gazette No. 3889);

9. Government Regulation No. 20 Year 1990 regarding Water Pollution Control (State Gazette Year 1990 No. 34, Addendum to the State Gazette No. 3409);

10. Government Regulation No. 19 Year 1999 regarding Sea Destruction and/or Pollution Control (State Gazette Year 1999 No. 32, Addendum to the State Gazette No. 3816);

11. Government Regulation No. 25 Year 2000 regarding the Government’s Authority and the Authority of Province as an Autonomous Region (State Gazette Year 2000 No. 54, Addendum to the State Gazette No. 3952);

12. Presidential Decree No. 234/M Year 2000 which has been Amended by Presidential Decree No. 289/M Year 2000;

13. Presidential Decree No. 177 Year 2000 regarding the Ministry Tasks and Organizational Structure;


**DECIDES:**

To Stipulate : THE RESOLUTION OF THE MINISTER OF MARINE AFFAIRS AND FISHERIES REGARDING GENERAL GUIDELINES ON THE SUSTAINABLE AND COMMUNITY BASED MANAGEMENT OF SMALL ISLANDS.

FIRSTLY : General Guidelines on the Sustainable and Community Based Management of Small Islands shall be as specified in the Appendix to this Resolution and shall become an integrated part of this Resolution.
SECONDLY : The Guidelines as referred to in the First dictum shall be used as a reference for the officials, apparatus, and/or general public in implementing sustainable and community based management of small islands.

THIRDLY : This Resolution shall be effective as of the date of its enactment.

Laid down in Jakarta
On December 22, 2000

MINISTER OF MARINE AFFAIRS AND FISHERIES,

Duly signed

SARWONO KUSUMAATMADJA

Copy according to its original
Head of the Bureau for Legal and License Affairs

Officially sealed and duly signed,

NARMOKO PRASMA DJI
APPENDIX : Resolution of the Minister of Marine Affairs and Fisheries Number: 41 Year 2000.
Regarding General Guideline on the Sustainable and Community Based Management of Small Islands.

CHAPTER I
INTRODUCTION

A. Rationale

As an archipelago state, Indonesia consists of some 17,500 islands, 5.8 million km2 of sea area and an 81,000 km coastline. Most islands are small but contain abundant natural resources and environmental services, which have strong potential for economic development.

These small islands have significant potential to be developed as they are supported by ecosystems that have high productivity e.g., coral reefs, sea grasses, seaweeds, and mangroves. Maritime biological resources in these areas are varied and have high economic values e.g., grouper, napoleon, ornamental fish, sea horse, pearl coral, giant clam (Tridacna gigas), and sea cucumber. In addition, these small islands also provide environmental services with high economic values, and act as tourist destinations.

These small islands have not been developed so far because the National Development program in the past was more oriented toward land development. Although there were some development activities, they were focused more on economic growth and therefore: less attention was given to environmental conservation and had this has marginalized local inhabitants.

On the other hand, it has been shown that waters surrounding these islands, which contain abundant fishes, have tended to be used as fishing locations by both local and foreign fishermen by way of environmentally unfriendly methods such as by bombing, poisons, etc. It has also been noted that isolated small islands have been frequently used as locations for smuggling, waste disposal and/or illegal sand mining.

In this globalization era which is marked by free trade and unlimited communication and information systems, that bring people living in islands near border areas closer, it would be more beneficial that they deal with other countries rather than the Provinces or Regencies/Municipalities that rule them. This should also be a consideration in developing small islands located near border areas with neighboring countries.

Based on their potential and problems described above and due to the government’s responsibility to prepare macro policies in terms of maritime affairs, as referred to in Article 7 of Law number 22 Year 1999 regarding Regional Government and standard management of small islands pursuant to article 2 paragraph (3) item 2.d of the Government Regulation Number 25 Year 2000 regarding the Authority of the
Government and the Provincial Government as an Autonomous Region, it is necessary to set General Guidelines on the Sustainable and Community Based Management of Small Islands.

These General Guidelines are expected to improve the development of small islands and to serve as direction for optimal and sustainable development of small islands in the future.

B. Objectives and Targets

1. Objectives
   The objectives of these General Guidelines are:
   - To serve as reference for stakeholders i.e. government, society, and business sector in implementing an integrated, sustainable and community-based management of small islands so as to obtain optimal, efficient and effective utilization of natural resources that will eventually improve people’s welfare and conserve the environment.
   - To serve as guidelines in setting up a mechanism for the management of small islands by stakeholders.

2. Targets
   The targets of these general guidelines are:
   - To focus operational policy for the management of small islands in Provinces and Regencies/Municipalities.
   - Establish mechanisms for the management of small islands by the government, society and business sector by way of placing people as the key player and paying attention to environmental conservation norms.
   - Orderly planning and implementation of the management of small islands currently in progress and at early planning stages based on sustainable development principles.

CHAPTER II

DEFINITION OF TERMINOLOGY

In this guideline,

1. Small islands/group of small islands shall mean a group of islands which are functionally interacting with each other in terms of ecology, economy, social and culture, either individually or in synergy that may improve the economy by managing its natural resources.
2. National Resources shall mean natural resources, artificial resources and human resources available in the regions.

3. Small Island Resources shall mean part of the National Resources that covers all natural resources consisting all kinds of natural resources that can and cannot be renewed, and environmental services that form an ecosystem in the islands and group of small islands.

4. Sustainable Management shall mean management that can meet people’s requirement and existing aspirations without sacrificing the fulfillment of their requirement and aspirations in the future.

5. Community-based Management shall mean management that places the community as manager of natural resources and environmental services and whom is supported by the government and business sector.

6. Management Agreement shall mean a written agreement entered into by the Government, Provincial Government and Regency/City Government, and any third party relating to the management of small islands so as to utilize existing natural resources optimally and effectively and will eventually improve people’s welfare and conserve the environment.

7. Management Guarantee shall mean guarantee provided by third party to manage small islands in the form of deposit and/or bank guarantee, and/or personal guarantee so as to:

   a. Protect living environment, when the third party, in implementing its physical activity, causes the lost of functions and values of biota ecosystem that support the islands and group of islands to be managed; and/or

   b. Avoid failure in fulfilling commitment as agreed upon in the management agreement of small islands.

   The Government, Provincial and Regency/City Government shall further stipulate the amount of management guarantee, which shall be handed over by the third party.

8. Third Party shall mean parties granted the management right by the Government, Provincial and Regency/City Government.

9. Safety Protocol shall mean management of territorial security that covers social, cultural, economic, institutional, traditional wisdom, and equal accessibility aspects.

10. Environmental Insurance shall mean an insurance premium to be paid by third party as guarantee for the environmental conservation and the management of small islands.
CHAPTER III
DEFINITION AND CHARACTERISTIC OF SMALL ISLANDS

The definition and characteristics of small islands are as follows:

a. Island that covers an area of less than or equal to 10,000 km², with a total population of less than or equal to 200,000 people;

b. Ecologically separated from the mainland, having clear physical borders, and being isolated from the mainland so that it has insular characteristic.

c. Having endemic plant and animal types and typical diversity with high value.

d. Relatively small catchment areas so that most sediment and surface waters flow to seas.

e. In terms of social, economy, and culture, the island community is different than those of mainland.

Lands, which are covered by seawater during the highest tide, are also categorized as small islands.

CHAPTER IV
POLICY GUIDELINE ON THE MANAGEMENT OF SMALL ISLANDS

A. Policy Guideline Regarding the Rights of Parties on Land and Water of Small Islands

1. The state recognizes and protects customary rights/traditional rights/basic rights over the control of lands and waters of small islands based on local customary law in addition to other rights governed by prevailing legislative regulations.

   a. For small islands and waters controlled/owned/managed by customary law, their management shall be fully based on customary law, according to prevailing legislative regulations.

   b. Any collaboration in managing small islands between local customary law society and third party must be based on mutual agreement in due observance with the environment and conservation of natural resources.

   c. Any collaboration in managing small islands between the customary law society and foreign third party must obtain approval from the Regency/City Government in due observance with the national interests.
2. The government is authorized to grant Land Concession Rights (HPL) to a party who shall manage small islands while the Regency/City Government is authorized to grant Rights of Building (HGB), Right of Using (HP) on HPL as long as they are not contrary with the individual right and/or customary law over the land.

3. Such granting of HPL shall be contained in the form of, among others, management agreement and other types of agreements.

4. Government, Provincial Government and Regency/City Government, based on prevailing legislative regulations, shall further regulate the rights over waters around the small islands.

B. Policy Guideline on the Spatial Utilization of Small Islands

Policy on the utilization of small islands must consider the followings:

1. Geographic aspect
   In the spatial utilization of small islands, it is necessary to consider the geographic aspect of the islands and groups of islands, which have a strategic position in developing the regional economy and geopolitical constellation. Therefore, spatial layout planning for small islands should consider relations between islands and groups of islands.

2. Regional susceptibility to politics, economy, social, culture and ecology.

3. National security

4. Availability of facilities and infrastructure.

5. Conservation areas and endemicity of flora and fauna including endangered species.

6. Political, economic, social, cultural and institutional characteristics of local inhabitants.

7. Landscape
   Island landscape is the expression of the natural balance of the small island and, as such, has unique natural values. Therefore, any change in the landscape must be made within defined tolerance limits and with regards to the assimilative capacity of the small islands’ environment.

8. Land use and sea zoning
   Management of land and sea utilization must consider the conflict of utilization and other factors such as specialty, susceptibility, and transformation of natural resources. Integrity of land and sea utilization shall be the main consideration.

9. Economic, social and cultural relations between islands.
Functional relationships between islands may produce synergy in the development and growth of social and economic activities in the group of islands.

10. Economic scale in developing activity
Management of a small island must be based on its economic scale so as to obtain optimal efficiency.

11. Involvement of stakeholders consisting of the government, society and business sector in planning such spatial utilization.

C. Policy Guidelines on the Management of Small Islands and its Surrounding Waters

1. In managing small islands and their surrounding waters, the following factors must be considered:
   a. Environmental balance/stability
   b. Integrated activities between lands and seas as an integrated ecosystem.
   c. Efficient use of resources.
   d. Security protocol based on resources values according to environmental and economic principles.
   e. International conventions and regulations, particularly those concerning the boundary of international waters.

2. Government, Provincial Government, Regency/City Government must guarantee that small islands coasts and waters are accessible for the people.

3. Small island ecosystems need to be comprehensively managed based on an integrated group of islands and/or their relationship with the ecosystem in larger islands.

4. Community-based management of small islands must consider traditions, norms, and/or social culture as well as the interest of local community.

5. Management of small islands by third parties for the purposes of observation, research and data/specimen compilation for the interest of science and technology development must involve related local institutions/agencies or experts. Related parties shall jointly own data, information, outcomes of such research, and the Intellectual Property Rights (HAKI).

6. Islands which have been determined as conservation areas based on Law number 5 Year 1990 and in certain areas of regulated authority, particularly locations for military training and military bases, are not included in the general guidelines on the management of small islands.
7. Sandbars, atolls and small islands, which become the base point in measuring Indonesian waters, can only be developed as conservation areas. Limited use types of these small islands shall only be allowed if they were previously used by society for settlement areas.

8. Small islands covering less than or equal to 2,000 km² can only be used for the following purposes:
   - Conservation
   - Mariculture
   - Tourism
   - Sustainable fishing and fishery industry
   - Organic agriculture and home-scale animal husbandry
   - Non-extractive high industrial technology
   - Education and research
   - Manufacturing and processing industries as long as they are not harmful to the ecosystem and environment.

9. Except for item 8 mentioned above these guidelines shall only prevail for activities which have already been carried out by occupants of the small islands prior to the issuance of these General Guidelines, as long as they do not cause any environmental degradation or are against the prevailing legislative regulations.

10. Utilization of resources in small islands that causes serious impacts to the environment shall not be allowed.

11. Management of small islands for manufacturing and processing industries can only be carried out on small islands with land area of more 2,000 km², under very strict conditions for environmental management and with due observance with the capacity of local water system, applying environmentally-friendly technology and in accordance with the prevailing legislative regulations.

12. Management of those small islands which are proposed for tourism activities must observe the strict conditions for environmental management, as referred to in articles 6 and 21 of Law No. 9 Year 1999 regarding tourism.

13. Management of small islands by any third party must involve the local community, in the terms of shared ownership and other active partnerships, and provide easy access to the small islands.

14. Any collaboration with foreign parties in managing small islands must be based on the national interest.

15. Small island management period shall be adjusted with the management objectives whereby implementation shall be regulated in a separate Resolution.
CHAPTER V
MECHANISMS FOR THE MANAGEMENT OF SMALL ISLANDS

Mechanisms for the management of small islands are regulated as follows:

1. Small islands shall be fully managed by Regency/City Government in cooperation with the community and business sector based on prevailing legislative regulations.

2. Regency/City Government may classify and name small islands, which have not been named by considering the names of islands, which have been determined by local society and based on prevailing legislative regulations.

3. Governments, Provincial and Regency/City Governments shall prepare a strategic plan and zoning system in managing small islands in their regions.

4. All stakeholders shall be required to prepare a management plan for the small islands and make zoning plans based on their utilization purposes.

5. Regency/City Government may grant a license to manage small islands and their waters to a third party based on customary law and prevailing legislative regulations.

6. Regency/City Government should firstly consult the Central Government before issuing permit for any foreign third party to manage small islands.

7. Any third party who seeks to manage the islands must transparently prepare both investment and action plans based on the Regional Development Strategic Plan (Propeda); these plans shall be assessed by the Provincial and Regency/City Governments.

8. A foreign third party who seeks to manage a small island should transparently prepare an investment plan and action plan based on the Regional Development Strategic Plan (Propeda); this plan will then be assessed by the Government.

9. A foreign third party as well as the Provincial and Regency/City Government shall be obligated to have a initial dialog with local society so as to obtain agreement on the management plan. Having come to mutual agreement, the management of small islands by involving local community shall then be planned.

10. As the follow up to management of small islands, the third party shall be required to perform AMDAL (Environmental Impact Analysis) Study, including the RPL (Environment Monitoring Plan) and RKL (Environment Management Plan) on activities, which are expected to create a significant impact on the environment.

11. In managing the small islands, a third party is advised to utilize potential energy available as new sources of energy e.g., wind, wave, Ocean Thermal Energy Conversion (OTEC) and solar energy.
12. Central Government, Provincial and Regency/City Governments shall determine which small island shall be used as strategic industrial areas based on prevailing legislative regulations.

13. Provincial and Regency/City Governments, if necessary, may appoint a technical agency/institution overseeing maritime affairs and fisheries as the local agency responsible for the planning, implementation, monitoring and evaluation of the management of small islands with area width of less or equal to 2,000 km².

14. Society shall participate in the monitoring of the management of small islands from its planning stage until its implementation stage.

15. In controlling the current and future management of small islands, the Provincial and Regency/City Governments shall be obligated to provide periodic reports to the Minister of Maritime Affairs and Fisheries.

16. When the said management of islands shall be undertaken with a third party, there must be both a management guarantee and environmental insurance for the Government.

17. In case such management of small islands is carried out by a third party, and there is risk that an activity may harm/damage the ecosystem value of the local biota, the Central Government, Provincial and Regency/City Governments shall be entitled to directly disburse the guarantee for the management of small islands without prior consent of the third party.

CHAPTER VI

LAW ENFORCEMENT AND OBEEDIENCE

1. In managing small islands, the Central Government, Provincial and Regency/City Governments shall be authorized to perform periodic monitoring and evaluation of the management based on prevailing regulations and policies.

2. When the third party is proven to have breached the prevailing regulations and policies and the Management Agreement, which has been agreed upon, then sanctions in form of a warning and/or revocation of management license shall be imposed. The Government, Provincial and Regency/City Governments shall then be entitled to disburse the Management Guarantee without prior consent of the third party.

3. Society shall be entitled to file charges against a third party when the latter, in performing his/her activities, breaches the plan which has been determined and inflicts losses on the local community.

4. The Ministry of Marine Affairs and Fisheries and the Provincial and Regency/City Governments shall be obligated to reevaluate the management of small islands which has been undertaken by any third party prior to the issuance of these guidelines. The Ministry of Marine Affairs and Fisheries and the Provincial
and Regency/City Governments shall then submit their evaluation results to the authorized agency so that they will be followed up should there be deviation in its management from the prevailing legislative regulations.

5. All parties involved in the management of small islands shall be obligated to obey prevailing legislative regulations, written procedures as well as customary law.

CHAPTER VII

CONCLUDING REGULATIONS

This general guideline shall constitute a reference for the Central Government, Provincial and Regency/City Governments in planning, implementing and controlling the sustainable and community based management of small islands.

Laid down in JAKARTA
On December 22, 2000

Minister of Marine Affairs and Fisheries

Duly signed,

SARWONO KUSUMAATMADJA

Copy in accordance with its original
Head of Bureau for Legal and License Affairs

Officially sealed and duly signed,

NARMOKO PRASMADJI