Introducing International Maritime Boundaries and Indonesia’s Current Boundary Issues

Outline

- Negara Kepulauan Indonesia
  - Lokasi
  - Pulau-pulau kecil
  - Indonesia dan 10 Irian
- Evolusi klaim maritim Indonesia
- Perkembangan Hukum Laut Internasional
- UNCLOS 1982
- Prinsip Delimitasi Batas Maritim
- Metode Delimitasi Batas Maritim
  - Batas Maritim Indonesia
  - Yang sudah terselesaikan
  - Yang belum terselesaikan
- Kasus terkait Batas Maritim di Nusantara
  - Sipadan dan Ligitan
  - Blok Ambalat (opini)
- JPDA di Laut Timor
- Pengalaman penelitian aspek teknis/geodetis hukum laut

Indonesia, the Archipelago…

Small islands

Indonesia’s Small Islands

Taken from: http://www.faridyuniar.web.ugm.ac.id/tampil_peta.htm

Indonesia and its neighbors
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Evolution of Indonesia’s maritime claims

Continental Shelf
Exclusive Economic Zone
Territorial Sea
Archipelagic Waters
Internal Waters

Evolution of Indonesia’s maritime claims

Development of the international LOS

- 18th-19th century Laissez-faire beyond belt of coastal seas, free!!
- Dominant European power maintaining communication with their colonies
- The use of the sea navigation and fishing (dpikir ikan gak akan abis)
- Second half of 20th century
- Emergence of two superpowers USA and USSR
- Independence and autonomy of developing countries
- Multi uses of the seas due to technology and increase of needs conflicts as the consequences
- Consciousness of exhaustibility of marine resources conservation

Historical Background

Three Distinct Periods

- Period 1: 14th Century-15th Century
- Period 2: 15th - 19th Century
- Period 3: 19th Century to Present

Period 1: 14th Century-15th Century

Papal Bull and Tordesillas

The Division of the New World
Papal Bull 1493
&
Treaty of Tordesillas 1494

Phase 2: 15th - 19th Century

Role of the Dutch and British
- Establishment of the Dutch East Indian Company
- Conflict between the Dutch and the Portuguese
- Conflict between the Dutch and the British
State sovereignty versus Freedoms of the seas – Mare Clausum vs. Mare Liberum

Development of the international LOS

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Historical Background

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3rd Period: 19th Century to Present

• Four Major attempts to codify the customary rules of law relating to the oceans.
• Rationale for codification
  – Complexity of rules
  – Increased number of States
  – Increased disputation

1. Hague Codification Conference 1930

• Objectives
  – to codify the rules relating to the territorial sea:
    • The extent of the territorial sea.
    • The jurisdiction of the littoral or coastal State over the territorial sea.
  • Disagreement among States over breadth of territorial sea

2. First Law of the Sea Conference (UNCLOS I - 1958)

– Resulted in four conventions,
  • The Convention on the Territorial Sea and the Contiguous Zone 1958
  • The Convention on the High Seas 1958
  • The Convention on the Continental Shelf 1958
  • Convention on Fishing and Conservation of the Living Resources of the High Seas 1958
  – Disagreement on breadth of the territorial sea


• Convened to discuss two unresolved issues from the 1958 Conference.
  • The limits of the territorial sea.
  • Fisheries limits.
  • 6+6 formulae – close to success but,
  • Failed to resolve issues

4. Third Law of the Sea Conference (UNCLOS III)

• Lasted from 1973 to 1982
• Resulted in the Law of the Sea Convention (LOSC) 1982
• Indonesia and Indonesians were active participants and contributors (especially in promoting the archipelagic concept)

UNCLOS 1982

Maritime Jurisdictions - LOSC
According to UNCLOS '82
- Normal (Art. 5)
- Reefs (Art. 6)
- Straight (Art. 7)
- Mouths of rivers (Art. 9)
- Bays (Art. 10)
- Ports and roadstead (Art. 11 and 12)
- Combination of methods
- Archipelagic (Art. 47)

Defining a Juridical Bay (UNCLOS III)

Combined Baselines

Indonesian archipelagic baseline

• PP 38/2002

Indonesian archipelagic sea lanes

Some problems
- Not yet a closed system
- Sipadan and Ligitan are still considered as basepoints
- Baselines around Timor Island

Revision is being undertaken
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Maritime Claims

- Basepoints
- Distance from basepoints
- Envelope of arc
- Maritime zone limit
- Irrelevant basepoint

Extended Continental Shelf

- Art. 76 of LOSC: coastal States may extend their Continental Shelf beyond 200 nautical miles → Extended Continental Shelf.
- Delineating the outer limits of the ECS, making submission to the commission on the limit of continental shelf (CLCS) through UN Secretary General.
- Nine submissions have been made by Coastal States (as of December 2007).
- Indonesia has potency for ECS but has not yet made any submission. Delineation is being undertaken.
- Deadline for submission is on 13 May 2009.

Definition of ECS – Legal

- Established baselines (either normal or straight)
- Low Tide Elevation
- Dry land
- Continental crust
- Seabed
- Outer limit of CS
- Fixed points (lat, long)

Principles of Maritime Boundary Delimitation

- Opposite States
- Adjacent States

- State A: Main land
- Archipelago: State B
- Fringing islands
- Island
- Low Tide Elevation
- Baselines
- Internal Waters
- Judicial bay
- Territorial sea Line 12 nm
- Contiguous zone Line 24 nm
- Continental margin
- EEZ Limit 200 nm
- Overlapping claim

- Maritime boundary
Methods of Maritime Boundary Delimitation

- Equidistance line (equitable)

Please refer to the images for visual representations of the concepts.
Methods of Maritime Boundary Delimitation

- Equidistance line (inequitable)

- Parallels and meridians

- Perpendicular to general direction of the coast

- Enclaving

- Thalweg

- Natural Prolongation

The two-stage approach

- Baseline definition
- Robust Equidistance line
- Final Boundary line
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Cases: Sipadan and Ligitan
- treaty-based title
- Chain of title
  - Bulungan sultanate
  - Sulu Sultanate
- Effectivities
  - Lighthouse construction
  - Turtle egg regulation
  - Environmental management
- ICJ's decision

Cases: Ambalat Block
- Overlaps in oil concession blocks
- Sovereignty or sovereign rights?
- Lack of comprehensive understanding
- Does Ambalat belong to Indonesia or Malaysia?

Cases: JPDA
- 1971-1972 Seabed Boundary (Indonesia-Australia)
- 1978: East Timor integration to Indonesia (or annexation?)
- 1989: Timor Gap Treaty
- 1999: East Timor independence
- 2002 Timor Sea Treaty
- Potential maritime boundaries (Indonesia and East Timor)

Concluding remarks
- There are a lot of things to learn and do
- Let's discuss 'anything'
- Drop me a line: email is faster than sms 😊
- Satisfied? I hope not!
- Thanks to:
  - Teknik Geodesi UGM
  - Teknik Geodesi UNDIP
  - Jalesveva jaya mahe!
  - Nenek moyangku orang pelaut...

Thank you 😊