

## **THE STANDING POINT OF AMBALAT REGION FOR INDONESIA BASED ON THE UNITED NATION CONVENTION OF THE LAW OF THE SEA 1982 PROVISIONS**

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### **Abstract**

Ambalat is a maritime region that falls under the jurisdiction of the State of Indonesia with an area of 4,735 square kilometers, located in the Sulawesi Sea or Makassar Strait and is near the extension of the land border between Sabah, Malaysia and East Kalimantan. With large oil and gas potential reserves of 764,000,000 barrels of oil and 1,400,000,000 cubic feet of gas. Therefore, the Ambalat Area is a strategic water region that is profitable for any country that controls the area, causing disputes over the ownership of the Ambalat Area between Indonesia and Malaysia. According to the provisions of United Nation Convention of The Law of The Sea 1982 (“UNCLOS 1982”) especially at explanation in Article 47 paragraph (1) UNCLOS 1982, it is permissible to draw archipelagic baselines from the outermost point of an island is the right of the archipelagic state contained in Chapter IV UNCLOS 1982 concerning archipelagic states, as explained in Article 46 UNCLOS 1982. The archipelago block regime described in Article 47 UNCLOS 1982 does not apply to a coastal country. Therefore this journal spagel discuss about the provisions and regulation that stated on UNCLOS 1982 about the standing point of Ambalat region on UNCLOS perspective.

**Keywords:** Ambalat Maritime Region, UNCLOS 1982, Maritime Boundary Disputes.

### **Introduction**

Indonesia is an archipelagic country that has a vast water area and consists of very many islands namely 17,508 islands even 2/3 of Indonesia's territory consists of waters (Darusman et al., 2020). Indonesia is included in the category of archipelagic countries because Indonesia is a country whose territory consists of one or more islands (Purwanto & Mangku, 2016). Furthermore, it is determined that what is meant by archipelago is a group of islands, waters that are interconnected (interconnecting waters) and natural characteristics, meaning in such a close affinity that they form an intrinsic geographical, economic and political unit or historically it has been like that in its natural form. Based

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on this, the sea area is one of the important factors in the territorial integrity of the Indonesian state Indonesia (Anwar, 1982).

Ambalat region in other way has so many resources on its continental shelf (Druce & Baikoeni, 2016). In the Ambalat region area there is one coordinate point where at that point holds potential reserves of 764,000,000 barrels of oil and 1,400,000,000 cubic feet of gas and when added to other coordinate points which up to now total nine points, the oil and gas content in the Ambalat region is estimated to be used as energy reserves for Indonesia for up to 30 years for the future and sufficient for national energy security standards based on calculations from the Ministry of Energy and Mineral Resources (ESDM).

Therefore, the Ambalat Area is a strategic water region that is profitable for any country that controls the area, causing disputes over the ownership of the Ambalat Area between Indonesia and Malaysia (Wicaksana, 2019). The abundant wealth of natural resources in the Ambalat Block area is one of the reasons for neighboring countries, such as Malaysia, as Malaysia's recognition of the Ambalat Block by Malaysia in 1979 (Prasetya et al., 2020). Malaysia's claim to ownership of the Ambalat Block was carried out starting in 1979 Malaysia by unilaterally issuing the Map of Malaysia 1979 on December 21, 1979, which later on the Malaysia Map expressly determined the outer limits of excessive maritime claims in the Sulawesi Sea and included the Ambalat Block in the Malaysian Block territory. Malaysia then issued the 1979 map by including the Ambalat Block, which was mentioned in the 1979 Map as ND 6, and the East Ambalat Block, which was mentioned in the 1979 Map as ND 7, which is located in the Sulawesi Sea Block, east of Kalimantan Island as ownership of Malaysia, then included it in the 1979 Map as a sovereign territory of Malaysia. Based on this claim, Malaysia, through Petronas, Carigali granted an oil exploration permit in the form of a Production Sharing Contract in Blocks ND 6 and ND 7 to a British company (Rosnan, 2018).

Countries that have seas that are directly adjacent to other countries, then these countries have the consequence of negotiating in order to make an international agreement on maritime boundaries with countries that are directly adjacent to their sea areas as stipulated in Article 83 paragraph (1) of the United Nations Convention of The Law of The Sea 1982 (from now on referred to as UNCLOS 1982) (Purwanto & Mangku, 2016). The division of the boundaries of the sea area of a country that directly borders with other countries must be regulated in an international treaty because it has an important meaning as a clarity to what extent a country has authority over the sea area of that country without disturbing the sovereignty of other countries sea territories (Subagyo, 2005). Whether this provisions not had been implement by Malaysia as they publish 1979 Malaysia's Teritorial Map.

Based of various background description that has been declared above, the author is interested in bringing up the article entitled: "The Standing Point of Ambalat Region For Indonesia Based On The United Nation Convention of The Law of The Sea 1982 Provisions" (Druce & Baikoeni, 2016).

As the background described above, the problems that will be conducted study is what is Indonesia's position on ownership of the Ambalat Region based on the 1982 UNCLOS provisions?

## **Research Method**

Finding sources that are intend as predictions about what will be done so that it can be seen what actions can be taken is destination from held a research (Marzuki, 2017). Regarding to the issue on this djournal, the research method that author implied is normative research method.

### **A. Type of Research**

This type of research in legal research is normative legal research (Marzuki, 2017). Normative research is research that provides a systematic explanation of the rules governing a particular legal category, analyzes the relationship between regulations explaining areas of difficulty and possibly predicting future development (Marzuki, 2017). In essence, the research conducted by examining library materials or secondary data consisting of primary legal materials, secondary legal materials and non-legal materials. Besides that, to find out the latest developments in this case, interviews were conducted with the authorities related to the writing of this djournal.

### **B. Research Approach**

The approaches used from some of the approaches above are the statutory approach (statute approach) and the case approach (the case approach).

The statutory approach is an approach taken by studying all laws and regulations that are related to the legal issues being handled.

The case approach is an approach that is taken by examining cases related to the issues at hand which have become court decisions that have permanent legal force, namely the Decision of the International Court of Justice December 17 2012 concerning sipadan lititan (Marzuki, 2017). and provision of UNCLOS 1982.

### **C. Types of Legal Material**

There are three types of legal materials, namely Primary Legal Materials, Secondary Legal Materials, and Tertiary Legal Materials. In this study, the authors use legal sources, namely:

1. Primary Legal Material The primary legal material used consists of laws and regulations, official records, treatises on making laws and judges' decisions (Marzuki, 2017). In this study, the primary legal material used was UNCLOS 1982, Law Number 17 of 1985 concerning Ratification of the 1982 United Nation Convention of the Law of the Sea, Decision of the International Court of Justice dated 17 December 2012 concerning the Sipadan Ligitan Dispute, and the 1969 RI-Malaysia Continental Boundary International Agreement.
2. Secondary Legal Material s textbooks because textbooks contain the basic principles of law and classical views of highly qualified scholars (Marzuki, 2017). In this study the secondary legal materials used include scientific books in the field of law, scientific papers, journals and scientific articles.

3. Tertiary Legal Material is material that provides instructions and explanations of primary and secondary legal materials. In this study, non-legal legal materials used included Indonesian dictionaries and internet articles and interview materials.

#### **D. Data Collection Technique**

The technique of collecting legal materials is intended to obtain legal materials in research. The technique of collecting legal material that supports and relates to the presentation of this research is document study (literary study). (Marzuki, 2017)

#### **E. Data Analysis Technique**

This study uses data analysis techniques with deductive logic, namely explaining a page that is general in nature and then drawing it into a more specific conclusion. The analysis was carried out by examining cases related to the issues at hand which have become court decisions that have permanent legal force, namely the International Court of Justice on 17 December 2012 concerning Sipadan Island and Ligitan Island and the RI-Malaysia International Agreement concerning the Continental Boundary in 1969.

### **Results and Discussion**

#### **A. Archipelagic States Regime Under UNCLOS 1982 and Its Relation to Ambalat Standing Point.**

Previously it had been determined in the 1982 UNCLOS Convention that archipelagic states have sovereignty over waters located within their archipelagic base lines regardless of their depth or distance from the coast. The archipelagic state has sovereignty over the air over its archipelagic waters and over the seabed and subsoil (Anwar, 1982).

The legal regime of the archipelagic state regulated in Chapter IV of the UNCLOS 1982 contains provisions relating to the definition of an archipelagic state, the method of withdrawing archipelagic baselines, the legal status of archipelagic waters, the right of innocent passage and the right of archipelagic passage (Kusumaatmadja & Agoes, 2021).

As that the sovereignty of the archipelagic State in archipelagic waters cannot be equated with in the territorial sea, because archipelagic waters is a *Sui Generis* concept which according to Article 49 paragraph 3 must be implemented in accordance with the provisions of Chapter IV of UNCLOS 1982. Although not inland waters, archipelagic waters have the characteristics territorial sea due to the recognition of innocent passage for foreign ships. In the provisions of Chapter IV of the UNCLOS 1982, the exclusive authority of the archipelagic State in its archipelagic waters must be balanced with recognition of the rights of other States (Agoes, 1996).

Therefore, over the sovereignty of the archipelagic State related to the territorial waters of its islands, it has authority over everything contained in its territorial waters and natural resource wealth that is located across the continental shelf over the sovereignty of the waters of the archipelagic State (Baumert & Melchior, 2015).

## **B. General Review of Continental Shelf Provision of Archipelagic States under UNCLOS 1982.**

According to (Summers, 1972), the theory of the continental shelf is based primarily on the geological fact that along most of the coast, the land sinks into the sea, until finally somewhere it drops steeply into the ocean depths. The water above the continental shelf is usually not that deep, so natural resources from the continental shelf can be utilized using existing exploration equipment. The Continental Shelf has the meaning as explained in UNCLOS 1982 which can be seen in Chapter VI, Article 76 Paragraph 1 which reads as follows: "The continental shelf of a coastal State includes the seabed and subsoil of the underwater area which lies outside the sea its territory insofar as the natural prolongation of its land territory to the outer edge of the continental margin or to a distance of 200 nautical miles from the baselines such that the breadth of the territorial sea measured in pages of the outer edge of the continental margin does not extend to that distance". From the limitations of Article 76 paragraph 1 above, it can be concluded that the continental shelf is the basis and subsoil of the area below sea level, but outside the territorial sea up to 200 nautical miles or 350 nautical miles if the continental shelf does not reach 200 nautical miles. The definition of the continental shelf in the 1982 UNCLOS is different from what is explained in the 1958 Convention on the Law of the Sea. If in the 1958 Convention on the Law of the Sea the determination of the Continental Shelf uses a water depth of 200 meters, instead the length of the continental shelf is determined to reach 200 nautical miles. However, on this page the world will use the understanding of UNCLOS 1982 as a definition of the continental shelf Definition of the Continental Shelf from UNCLOS 1982, the continental shelf of a coastal State includes the seabed and subsoil of the area below sea level which lies outside its territorial sea insofar as the natural prolongation of its land area to the outer edge of the continental margin, or to a width that reaches the distance of 200 nautical miles from the baselines used to determine the width of the Territorial Sea, if the outer edge of the continental margin does not reach that distance (Adolf, 2011).

The arrangement of the continental shelf boundary between two adjacent countries is regulated in UNCLOS 1982, namely in Article 83 governing the determination of the continental shelf boundary between two adjacent countries, both countries that are opposite or side by side. In the provisions of Article 83 Paragraph 1 it is stated that the continental shelf boundary line between two countries whose coasts are opposite or side by side will be determined through an agreement on the basis of International Law, as stated in Article 38 of the ICJ Statute to reach a fair settlement. According to the provisions of Article 38 paragraph 2 of the ICJ Statute, if such agreement is not reached, the countries must use the procedure set out in Chapter XV UNCLOS 1982.

Determination of continental shelf boundaries with neighboring countries is necessary to provide legal certainty regarding the sovereign rights of the Republic of Indonesia, and activities to exploit natural resources on the continental shelf. The first

continental boundary line agreement was successfully concluded with Malaysia in 1969 which was later followed by other agreements, so that the agreements that have been made by Indonesia related to neighboring countries are as follows:

- 1) RI-Malaysia Agreement 1969 concerning the Continental Shelf Boundary in the Malacca Strait and the South China Sea.
- 2) RI-Thailand Agreement 1971 concerning the Continental Shelf Boundary in the Malacca Strait (North Part) and the Andaman Sea.
- 3) RI-Malaysia-Thailand Agreement 1973 concerning the Establishment of the Continental Shelf Boundary in the Malacca Strait (Northern Part).
- 4) RI-Australia Agreement 1971 concerning the establishment of Certain Seabed Boundary Lines (Arafuru Sea and North Irian Jaya Papua New Guinea).
- 5) RI-Australia Agreement 1973 concerning Application of Boundary Lines for Certain Sea Areas (South of Tanimbar Island and Timor Island).
- 6) RI-India Agreement 1974 and 1977 concerning the Continental Shelf Boundary. The continental shelf boundary between Indonesia and India lies in the Andaman Sea, the waters around Sumatra and the Greater Nicobar Island.
- 7) RI-Vietnam Agreement 2003 concerning the Establishment of Continental Shelf Boundaries in Natuna Waters which was ratified by Law of the Republic of Indonesia Number 18 of 2007.

### **C. Ambalat Region Under UNCLOS 1982 and Its Standing Point on Indonesia and Malaysia Maritime Boundary Dispute.**

Since the 1982 UNCLOS was ratified, Indonesia and Malaysia participated in the signing of the 1982 UNCLOS so that all provisions contained in the 1982 UNCLOS must be obeyed and implemented by the parties that signed the 1982 UNCLOS. However, after Malaysia signed the 1982 UNCLOS, Malaysia did not comply with the 1982 UNCLOS provisions. Fully. Malaysia recognizes the existence of the EEZ but considers it to be an EEZ *side or in line* with the Continental Shelf so that the measurements for the Continental Shelf are equated with the EEZ measurement, which is 200 miles. This is not in accordance with the provisions regarding EEZ and the Continental Shelf in UNCLOS 1982. According to UNCLOS 1982, the measurement of EEZ and the Continental Shelf cannot be equated with one another because the meaning of EEZ and the Continental Shelf is different from one another. According to Article 55 of the 1982 UNCLOS, EEZ is an area outside and adjoining the territorial sea which is subject to the special legal regime stipulated in chapter V of the 1982 UNCLOS, while the Continental Shelf according to Article 76 paragraph (1) of the 1982 UNCLOS covers the seabed and land. below it from the area under the sea which lies beyond its territorial sea along the natural prolongation of its land area to the outer edge of the continental margin or to a distance of 200 nautical miles from the baseline as the breadth of the territorial sea is measured in the event that the outer edge of the continental margin does not extend to that distance. Article 76 paragraph (1) explains that the measurement of the continental shelf is withdrawn as far as 200 miles, but the measurement of the continental shelf can be withdrawn as

far as 350 miles if naturally the contours of the land below the sea surface exceed 200 nautical miles. However, for a country that withdraws the Continental Shelf beyond 200 nautical miles, that country according to Article 76 paragraph (8) UNCLOS 1982 the measurement of the Continental Shelf must be reported to the Commission on the Limits of the Continental Shelf (*Commission on the Limit of the Continental Shelf*). Based on this, the measurement of the area of the EEZ and the Continental Shelf cannot be equated with one another, because the area of the EEZ as described in Article 57 UNCLOS 1982 is that it may not exceed 200 nautical miles from the baseline from which the width of the territorial sea is measured, while the area of the Continental Shelf can be drawn as far as maximum of 350 nautical miles where available *natural prolongation* or the natural extension of the contour of the land from the seabed. Based on Article 76 of UNCLOS 1982, the provisions of the Continental Shelf according to UNCLOS 1982 are an advantage for an archipelagic country, especially Indonesia, because with the provisions of the Continental Shelf according to UNCLOS 1982, Indonesia has an additional continental shelf area of 150 miles from the provisions of the Continental Shelf according to the 1958 Law of the Sea Convention. That is 200 miles. Malaysia considers that the provisions of the Continental Shelf contained in the 1982 UNCLOS do not provide an advantage for those who are not archipelagic countries, therefore Malaysia considers that the area of the Continental Shelf *one line* or one line with EEZ.

Prior to the 1982 UNCLOS, the 1958 Convention on the Law of the Sea was the law that applied to international law of the sea. The 1958 Law of the Sea Convention is a convention that regulates the regulation of the territorial sea, contiguous zone, high seas and the Continental Shelf. According to the 1958 Sea Law Convention, the territorial sea limit is only 12 miles, so that in the 1958 Sea Law Convention there was no archipelagic waters regime connecting the sea areas from one island to another. This makes the sea area outside of 12 miles into the high seas category where a country does not have sovereign rights over that water area. This makes the position of the archipelagic nation at a disadvantage because the territorial waters of the state are divided and separated from the unified territory of the state. Indonesia as an archipelagic country by joining the 1958 Sea Law Convention makes Indonesia's position disadvantaged as an archipelagic country because its territorial waters are separate and not fully integrated into one unit. When Indonesia was still using the 1958 Law of the Sea Convention, Indonesia's sea territory was divided into several sea areas so that the Indonesian islands at that time were separated by the high seas and could become foreign ship traffic without permission from Indonesia so that at that time Indonesia did not yet have complete sovereignty. Over Indonesian territorial waters. In the 1958 Convention on the Law of the Sea there was also no regulation on ALKI so that at that time the Indonesian sea area was still separated from international shipping lanes. In addition to arrangements regarding the Territorial Sea, the 1958 Sea Law Convention also regulates the Continental Shelf, Malaysia's understanding of the Continental Shelf which is *one line* with ZEE, namely ZEE is

## The Standing Point of Ambalat Region for Indonesia Based on The United Nation Convention of The Law of The Sea 1982 Provisions

withdrawn as far as 200 miles is an interpretation of Article 1 of the 1958 Law of the Sea Convention. The Continental Shelf as referred to in Article 1 contained in the attachment Convention on the Continental Shelf The Law of the Sea Convention 1958 is “the term “continental shelf” is used as referring to the seabed and subsoil of the submarine areas adjacent to the coast but outside the area of the territorial sea, to a depth of 200 metres or beyond that limit, to where the depth of the superjacent water admits of the exploitation of the natural resources of the said area”. According to this definition, the Continental Shelf contained in the 1958 Convention on the Law of the Sea, namely the Continental Shelf is the seabed and subsoil that is adjacent to the coastline but is in the outer part of the territorial sea to a depth of 200 miles or beyond that limit for the purpose of resource exploitation. Nature on the seabed and the ground beneath it. Based on this definition, the Continental Shelf in question is 200 miles, but the 1958 Convention on the Law of the Sea has not regulated the provisions for withdrawing the Continental Shelf as far as 350 miles as described in Article 75 paragraph (1) UNCLOS 1982.

The maritime border between Indonesia and Malaysia in the Ambalat area is one of the disputed maritime borders between Indonesia and Malaysia, which until now there has been no agreement between the Governments of Indonesia and the Government of Malaysia. Disputes in the Ambalat Area have occurred since the 1960s, to be precise in 1967 the Government of Indonesia and the Government of Malaysia began negotiating regarding the boundaries of the territorial waters over the Ambalat Area which were then mutually agreed on October 27, 1969 in Kuala Lumpur with the ratification of the Ambalat Continental Shelf Agreement 1969. Based on the 1969 Ambalat Continental Shelf Agreement, ownership of the Continental Shelf in the Ambalat Area, especially for the Ambalat Block and East Ambalat Block, is Indonesian ownership. The international agreement has been agreed upon by Indonesia and Malaysia so that it adheres to the principle *agreements are to be kept* against the parties bound in the international agreement. According to the principle *agreements are to be kept*, the parties bound in the 1969 Ambalat Continental Shelf Agreement must comply with and implement the provisions contained in the agreement after they have signed the agreement. But in fact Malaysia did not comply with what was written in the 1969 Continental Shelf Agreement, this was evidenced by the issuance of the 1979 Malaysia Map which included the Ambalat Area into Malaysian territorial waters. The issuance of the Map of Malaysia in 1979 also underlies Malaysia's action to grant oil and gas exploration permits through the oil company Petronas to oil and gas companies. *Shell, Ltd.* In the 1979 Malaysia Map, Malaysia included the Ambalat area, specifically the Ambalat block and the East Ambalat block, into the ownership of the Malaysian maritime territory. Map of Malaysia 1979 is a map depicting the maritime area of Malaysia which is used by Malaysia as a map of Malaysian territorial waters. The issuance of the 1979 Malaysia Map constitutes a form of violation by Malaysia in relation to ownership of the Ambalat Area, because as stated in the 1969 Ambalat Continental Shelf Agreement that the Ambalat block and the East Ambalat



block are Indonesian ownership so that the issuance of the 1979 Malaysia Map is a form of Malaysia's violation of The 1969 Ambalat Continental Shelf Agreement. Apart from being a violation of the 1969 Continental Shelf Agreement, the 1979 Malaysia Map also had a detrimental impact on Indonesia, especially on natural resource wealth in the form of oil and gas owned by Indonesia in the Ambalat Area, so that against the issuance of the 1979 Malaysia Map Indonesia filed a protest against Malaysia. The protests received by Malaysia were not responded to by Malaysia and Malaysia is still using the 1979 Malaysia Map as a map of Malaysian territorial waters. In addition to protests against the publication of the 1979 Malaysia Map from Indonesia, protests against the issuance of the 1979 Malaysia Map also came from countries that have sea areas directly adjacent to Malaysia such as Singapore, the Philippines and Brunei Darussalam representing the United Kingdom. The protest was due to the existence of the 1979 Malaysia Map, there was a change in the description of the territorial waters owned by Malaysia which alluded to the waters of other countries that directly bordered its maritime territory with Malaysia, for example the filing of a protest filed by Singapore in 1980 against the 1979 Malaysia Map related to ownership Pedra Blanca Island, Middle Rock and South Ledge. However, Malaysia's response to the protests filed by these countries remains unresponsive to Malaysia and Malaysia continues to use the 1979 Malaysia Map to date.

On the 1979 Map of Malaysia, Malaysia drew a territorial boundary line from the Sabah Coast line by drawing a straight base line to Sipadan and Ligitan Islands. Based on this, Malaysia included Sipadan and Ligitan Islands into Malaysia's sovereign territory and became a unit with the mainland of Sabah long before the International Court of Justice Decision dated December 17, 2002 regarding Sipadan and Ligitan Islands. Then on May 31, 1997, both countries brought the settlement of the Sipadan Island and Ligitan Island ownership dispute to the ICJ, by signing *Special Agreement For the Submission to the International Court of Justice on the Dispute Between Indonesia and Malaysia Concerning the Sovereignty Over Pulau Sipadan and Pulau Ligitan* Of Kuala Lumpur and submitted to the International Court of Justice through *Joint Letter*. Then on December 17, 2002 it was decided by the ICJ via *Press Release 39/2002* December 17, 2002, which decided the ownership of the two islands belonged to Malaysia.

After the International Court of Justice's decision on 17 December 2002, Malaysia tried to draw baselines to determine territorial sea boundaries and the Continental Shelf of Sipadan and Ligitan Islands. The withdrawal of baselines as a determination of the sea boundaries of the outermost islands is not permitted in the 1982 UNCLOS provisions, as is the archipelagic waters regime described in Article 47 paragraph (1) of the 1982 UNCLOS, namely "*An archipelagic State may draw straight archipelagic baselines joining the outermost points of the outermost islands and drying reefs of the archipelago provided that within such baselines are included the main islands and an area in which the ratio of the area of the water to the area of the land, including atolls, is between 1 to 1 and 9 to 1.*" According to the explanation

The Standing Point of Ambalat Region for Indonesia Based on The United Nation  
Convention of The Law of The Sea 1982 Provisions

in Article 47 paragraph (1) UNCLOS 1982, it is permissible to draw archipelagic baselines from the outermost point of an island is the right of the archipelagic state contained in Chapter IV UNCLOS 1982 concerning archipelagic states, as explained in Article 46 UNCLOS 1982. The archipelagic waters regime described in Article 47 UNCLOS 1982 does not apply to a coastal state. Malaysia in this case is not an archipelagic country like Indonesia but Malaysia is a coastal country because it does not have elements of an archipelagic state as described in Article 46 UNCLOS 1982. Therefore, drawing baselines as determining sea boundaries cannot be justified according to the provisions UNCLOS 1982. Arrangements regarding archipelagic baselines or *archipelagic baseline* regulated in Article 47 UNCLOS 1982

Withdrawal of baselines by Malaysia has caused the Ambalat area, namely the Ambalat block and the East Ambalat block, to enter the Malaysian maritime territory. Malaysia's action violated the provisions contained in the International Court's Decision dated December 17, 2002. According to Judge Oda's considerations in the International Court's Decision dated December 17, 2002 concerning Sipadan and Ligitan Islands, Judge Oda was of the opinion

*“Though Malaysia has now been awarded sovereignty over the island, the impact of the court judgement on the delimitation of the continental shelf of the island should be considered from a different angle. The rules concerning the delimitation of the continental shelf is set out in article 83 of the 1982 United Nation Convention on the Law of the Sea calling for equitable solution. The question remains how equitable consideration apply to these islands”.*

Judge Oda in his consideration of the judges was of the opinion that the international court's decision ruled that the ownership of Sipadan and Ligitan Islands belonged to Malaysia, but the impact of the international court's decision on the limitation of the Continental Shelf of Sipadan and Ligitan Islands was different from the ownership of Sipadan and Ligitan Islands, namely that Malaysia had ownership to Sipadan and Ligitan Islands but to the Continental Shelf over Sipadan and Ligitan Islands does not belong to Malaysia, Malaysia with respect to the arrangements regarding the Continental Shelf over Sipadan and Ligitan Islands is obliged to pay attention to the provisions stipulated in Article 83 of the 1982 UNCLOS, so that against the withdrawal of the line from Sipadan Island and Ligitan is not allowed by the decision of the International Court of 17 December 2002. According to Article 83 paragraph (1) UNCLOS 1982 The determination of the boundary line of the continental shelf between States whose coasts are opposite or side by side must be carried out with approval on the basis of international law, as stated in Article 38 of the Statute of the International Court of Justice to reach a fair settlement. Based on Article 83 paragraph (1) UNCLOS 1982, the Continental Shelf of a country that borders other countries must be regulated in an international treaty or joint agreement between the two countries related to the Continental Shelf. Malaysia's action violated the rules contained in Article 83 paragraph (1) UNCLOS 1982, this is because

Malaysia, without negotiations with Indonesia, Malaysia made a long withdrawal to the south towards the Ambalat area.

After withdrawing the baselines from Sipadan and Ligitan Islands, Malaysia granted oil exploration permits in the Ambalat area to oil companies (Hendrapati et al., 2022). *Shell, Ltd.* Oil exploration permits for the Ambalat Area given by Malaysia to oil companies *Shell, Ltd.* is a cooperation contract between the Malaysian government and oil companies *Shell, Ltd.* for cooperation in the management of oil mining exploration in the Ambalat Area. The granting of oil exploration permits in the Ambalat area was based on the results of drawing baselines from Sipadan and Ligitan Islands. According to Malaysia, the Ambalat area will be included in the maritime territory of Malaysia if the baselines are withdrawn from Sipadan and Ligitan Islands. However, this is not true because Malaysia in withdrawing the baselines has violated the provisions of Article 47 paragraph (1) UNCLOS 1982 and the International Court of Justice Decision of 17 December 2002, so that the permits granted by Malaysia through Petronas to oil companies *Shell, Ltd.* cannot be said to be lawful under international law. This is due to the fact that when making a cooperation contract, the contract is based on applicable legal provisions and does not violate the legal provisions governing the objects regulated in the contract, while the oil exploration permit for the Ambalat area granted by Malaysia to an oil company *Shell, Ltd.* violated the provisions contained in Article 47 UNCLOS 1982 and the International Court of Justice Decision 17 December 2002. Therefore, the oil exploration permit in the Ambalat area granted by Malaysia to an oil company *Shell, Ltd.* legally invalid..

## Conclusion

Based on the Author's research about the Ambalat region boundary dispute between Indonesia and Malaysia, the Author gives the conclusion that by the UNCLOS 1982 or by the books, Malaysia's action of publishing Malaysia Territorial Map 1979 is legally invalid because, on the UNCLOS 1982 perspective, the party needs to reach a mutual consent between the parties about the maritime boundary continent shelf that shall be set on bilateral agreement between the country. Conversely, as stated in Articles 46 and 47 of UNCLOS 1982, Indonesia's position as an archipelagic state can be strong legal standing on Indonesia's claim of the territorial Ambalat Region. Indonesia's Government must be aware of its policy to strengthen Indonesia's positive occupation of the Ambalat region so the Sipadan and Ligitan 2002 case will be avoided.

The Government of Indonesia needs to strengthen its position and maintain the right to ownership of the Ambalat Block from Malaysia; it must be built and strengthened by the Indonesian Government's appropriate and legal policies so that if the dispute over the Ambalat Block enters the negotiation stage or further negotiations or enters into dispute resolution through the ICJ so that bargaining *position* Indonesia is solid and strong enough to be debated and fought for internationally following applicable provisions of International Law and UNCLOS 1982.

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