

International Law of the Sea in North Natuna Sea

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ABSTRACT

The dispute that occurred in the North Natuna Sea has attracted international attention, including the superpower United States of America and the People's Republic of China and countries in the Southeast Asian region. This escalation of tensions occurred when the People's Republic of China built military bases in areas considered the nine dash lines that the PRC claims as part of their country. International law continues to fail to enforce the North Natuna Sea. It is clear that international law has so far tried - and failed - to contain China's advances in the North Natuna Sea. Existing confidence-building measures must match China's increasingly hegemonic claims. If not, the rules-based order will face continued erosion and smaller countries in Southeast Asia will suffer the consequences. This study uses a qualitative approach with socio-historical analysis to reveal past events, especially in the field of maritime law, which are unknown to the international community.

Keywords: China, International Law, North Natuna Sea, and USA.

INTRODUCTION

The North Natuna Sea is a sea that has tremendous potential and is in the Southeast Asia region. Where there are many natural and mineral riches that are beneficial to the surrounding superpowers. Now the North Natuna Sea is a dispute between countries in Southeast Asia. China as the owner of the sovereignty of the sea area based on its history. In 2011, the Philippines filed a North Natuna Sea lawsuit to the arbitration court in The Hague, Netherlands. However, hearing the lawsuit from the Philippines, China could not reject the lawsuit and finally the Arbitration Court decided that the Philippines won the lawsuit and China lost the lawsuit. Six years later in 2017, a new dispute emerged in the North Natuna Sea where the Indonesian state claimed the sea area as its territory and changed its name to the North Natuna Sea. However, again the Chinese state did not accept this so that the Chinese State protested against the Indonesian State.

In international relations there is a problem called a dispute, the dispute itself means things that cause different opinions, disputes and objections. Conflict or sengketa arise or often occur because of differences in perceptions about an area or environment which are carried out consciously and

the environment is a physical and social environment (Koentjaraningrat, 1982). When Philippine President Rodrigo Duterte and Chinese President Xi Jinping meet in Beijing on August 29, there are high hopes for making progress on the South China Sea territorial dispute. What's more, under increasing domestic pressure, Duterte has promised - for the first time - that he will present the arbitral tribunal's 2016 ruling during his meeting with Xi. Disputes that occur involving 2 or more countries are called international disputes, international disputes are situations in which the two countries have different opinions, views regarding an implementation of an agreement that must be carried out or not carried out in its implementation. (Huala Adolf, 2004)

The decision, made in 2016 by the Permanent Court of Arbitration under Annex VII of the United Nations Convention on the Law of the Sea (UNCLOS), supports the Philippines' claim. The court ruled that there is no legal basis, including international law, for China's claim to historic rights to the territory under the Nine Dashes, and that China has violated its obligations under the Convention on International Regulations to Prevent Collisions at Sea (COLREG).

Despite the ruling, China has continued to assert its claims to more than 80 percent of the South China Sea, building military facilities in the disputed territory and deploying more than 300 naval vessels: the largest in the Asia Pacific. China has also deployed so-called "fully equipped boat militias" disguised as fishing vessels that patrol, supply, monitor and provoke incidents.

During the meeting, Duterte called the ruling "final, binding and not subject to appeal". Recently, however, Duterte reneged on his commitment to the decision after Xi promised a 60-40 split scheme in oil exploration that benefited the Philippines. It is clear that international law has so far tried - and failed - to contain China's advances in the South China Sea. Existing confidence-building measures (CBM) must match China's increasingly hegemonic claims. Otherwise, a rules-based order will face continued erosion and Southeast Asia's smaller economies will suffer the consequences.

The main framework guiding the management of the North Natuna Sea dispute lies in the ASEANChina Code of Ethics (COC). Although it was first discussed in 2014, China only started taking its approach to COC more seriously in late 2016 in an attempt to shift its rejection of the arbitral tribunal's ruling.

China's participation in COC negotiations since then has also served two purposes - greater engagement between China and ASEAN countries is able to support the narrative that the dispute in the Utaramurni Natuna Sea is regional, and that foreign intervention is unnecessary. In August 2018, ASEAN and China adopted a draft negotiating text for the COC.

In the draft, there was agreement on the need to build a rules-based framework and work within international norms - however, the interpretation of such broad terms has created room for what appear to be unsolvable disputes between claimant states. For example, Vietnam has called for a ban on building artificial islands and the deployment of defensive weapons such as surface-to-air missiles. China has done both.

Vietnam and Indonesia have also jointly called for respect for the coastal zones of these maritime nations, including the exclusive economic zone of 200 nautical miles from their coast, which directly enters China's Nine-Dash Line. Undeterred by their differences, the 11 parties consolidated the draft

and conducted the first reading in July 2019. Senior officials from each country will next meet in October 2019 to discuss how the second reading will proceed. Xi even unilaterally called for the COC to be signed by 2021.

Regardless of the progress made, COCs are inherently flawed to be used as a vehicle for dispute management. In addition, not all ASEAN members are claimants of the South China Sea, although ASEAN as a whole is involved in the process of discussing the COC. Of the ten countries that are members of ASEAN, only four officially consider themselves claimant states, including Vietnam, Brunei, the Philippines and Malaysia.

It is difficult to understand a world where overlapping claims to seabed and waters can be resolved effectively, when one side of negotiations is inherently divided in their favor - and the other is China. First, it leaves claimant and non-claimant states vulnerable in negotiations with China, which has recently exploited divisions in ASEAN's negotiating stance. Second, with ASEAN negotiations as a unit, non-claimant countries are drawn into disputes unrelated to them. How do countries fight collectively for their claims, when their claims conflict with one another?

Moreover, COCs are inherently limited in terms of their achievements. The COC must be recognized for what it is - a dispute management framework. This is not a dispute resolution mechanism. The final resolution of claims to sovereignty and maritime boundaries under UNCLOS terms could be reached "many years from now" according to the Center for Strategic and International Studies (CSIS). Therefore, all parties must engage in the COC "without prejudice to the final settlement of claims" and emphasize that any agreement "will not impact the parties' current legal position on the dispute".

Nonetheless, it is clear that the prosecution's actions outside of COC involvement completely nullify any such plans. This has created something of a —two-way path|| in South China Sea policy, where various confidence-building (CBM) measures, such as the COC, are undermined by the plaintiff's —erosion of confidence|| activities, such as the construction of Vietnamese outposts in water territories. that is disputed. The current ineffectiveness of CBM in limiting their parties can mask and even accelerate activities that undermine this trust.

And it's not just COC. Various other CBMs that were supposed to regulate activities in the North Natuna Sea are victims of the same narrative of ineffectiveness. China's Coast Guard and People's Liberation Army-Navy, and Chinese maritime militia ships continue to violate COLREGs Regulations 2, 6, 7, 8, 15, and 16, and thus violate UNCLOS Article 94.

This is evident, for example, when the Chinese operation "poses a serious risk of collision for Philippine ships navigating around the Scarborough Shoal". It was also substantiated and condemned by the Permanent Court of Arbitration in 2016. Furthermore, the Code for Unplanned Meetings at Sea (CUES) - another treaty often applied to South China Sea disputes - has no binding character and does not apply to coast guards, although most of the incidents involved coast guard and other maritime law enforcement vessels.

There may be relevant precedents for detaining China from continuing to carry out trust-eroding activities in the South China Sea. One interesting precedent is the Guiana vs Suriname arbitration

award from September 2007. Seven years earlier, two Surinamese patrol boats entered the disputed maritime zone and ordered an oil rig and a drill ship operating under a Guyana license to withdraw. This — the court ruled— "It seems more akin to threats of military action than mere law enforcement activity." This case highlights, first, the existence of a threshold between law enforcement action and the threat or use of force prohibited by article 2 (4) of the UN Charter, and second, that the existing threshold is very low. Given China's more provocative actions - including sinking Vietnamese and Filipino vessels earlier this year - it is clear that such a threshold has long been breached.

Recently, and perhaps more relevant, in the Arctic Sunrise case filed by the Netherlands against Russia at the International Tribunal for the Law of the Sea (ITLOS), Russian authorities took the Greenpeace ship, Arctic Sunrise, which flies the Dutch flag in international waters in Russia's EEZ, citing the hijacking of the crew as justification.

On 22 November 2013, ITLOS decided that the ship and its crew should be released immediately, for the sake of the Netherlands. In 2015, the Permanent Court of Arbitration unanimously ruled that Russia had violated UNCLOS and asked Russia to compensate the Netherlands. Russia, like China in the South China Sea, strongly ignored the ruling, but in May 2019, the two countries issued a joint statement using language reflective of the 2016 North Natuna Sea arbitral tribunal ruling, in which Russia agreed to pay compensation despite previously failing to comply with the ruling. .

What's difficult is, UNCLOS operates most effectively when there are clear maritime boundaries. However, such delineation of borders emerges from UNCLOS itself. This is what has trapped the North Natuna Sea in what seems to be an endless dispute; this is also what caused the failure of international law to contain China. Therefore, CBM in this context must be realized with more strength.

However, there should not be greater patrols from non1-claimant countries, such as the US, which continue with relentless freedom of navigation (FONOP) operations while touting the virtues of a —whole-of-government approach|| to protecting a certain rules-based international system in under UNCLOS, which has not yet been ratified.

Doing so would be hypocritical, especially considering that China is at least likely to ratify the convention. The ongoing FONOP serves little purpose other than to anger an aggressive China and encourage further confidence-eroding activities to the detriment of Southeast Asian nations.

Future agreements must be reached with an understanding of such dynamics, and when 11 countries meet next month this should be a priority. For example, Jay Batongbacal, professor at the University of the Philippines' Faculty of Law and Director of the Institute for Maritime Affairs and Maritime Law, said that CBM must have clear points of action that are publicly reported and can be independently verified by third parties, and there must be active and enforced mechanisms. as soon as a problem arises that requires concrete action. Whatever the form, such CBM must be put to good use. Until then, international law will continue to fail to be enforced.

RESEARCH METHODS

This study uses a qualitative approach with the Socio-historical method. Socio-historical analysis is a social concept to assess historical events from society and events in the past. This analysis explores past events with social concepts such as the industrial revolution, urbanization, democratization and others. Socio-historical analysis also explains incidents that were unknown to the public at that time, such as agreements between countries on international law of the sea, bilateral / multilateral agreements between countries. (Wisnu Jatmiko, 2015)

DISCUSSION AND THE RESULTS

Jurisdiction in the Law of the Sea

When on 10 December 1982 the Law of the Sea Convention¹ was finally concluded, after one of the lengthier ever negotiations in international lawmaking, the end-product were truly impressive. Much more than a codifying treaty in progressive development of a very old branch of international law or even simply —a constitution for the oceans||23, the new instrument created an integral normative system, complete with a compulsory dispute settlement mechanism and its own (though nonexclusive) judicial forum. It was also a new blueprint for the partition of the sea³, a monumental allocation of powers strongly reminiscent of – and certainly comparable to – the very real struggle⁴ underpinning the intellectual duel evidenced in Huig de Groot's *Mare liberum* (1609)⁵ and John Shelden's *Mare clausus* (1635)⁶. As such the Law of the Sea Convention (LOSC) was the culmination of the tug-of-war between the sovereignty of the coastal State, which atavistically purports to expand its power further and further away from land; and the freedom of the high seas, a principle partly created as a reflexion of the impossibility to subdue the vast expanse of water for long centuries in human history⁷.

The trend was already in place when the 1930 Hague Conference for the Codification of International Law was convened, where Bases of Discussion No. 1 stated: —A State possesses sovereignty over a belt of sea around its coasts; this belt constitutes its territorial waters||8. The 1945 Truman Proclamations on the continental shelf⁹ and coastal fisheries¹⁰ ushered in a wave of similar proclamations in a continuing wave of expansion¹¹ – all the way to the Chilean concept of *mar presencial*, first introduced by Admiral Jorge Martinez Busch, Commander in Chief of the Chilean Navy¹² and tentatively defined as —[a] type of contiguous zone to the exclusive economic zone, in which the State may prevent infringements of its fishing, research and resources exploitation interests in the exclusive economic zone||¹³

The 1958 UN Conference on the Law of the Sea (UNCLOS I) ended up with the adoption of four conventions¹⁴ and the creation of five zones in the sea¹⁵: internal waters, territorial sea, the contiguous zone, the high seas and, underneath it all, the continental shelf. This zonal approach, mostly based on concentric circles drawn from the baseline, was further accentuated in the Law of the Sea Convention, where the distance element was replaced by a spatial element tout court. We now have six categories of marine water spaces: internal waters¹⁶, territorial sea¹⁷, archipelagic waters¹⁸, contiguous zone¹⁹, exclusive economic zone (EEZ)²⁰, high seas²¹; and two categories of marine underwater areas: the continental shelf²² and the Area²³ – and perhaps even a archaeological zone²⁴. The 'unlimited expanse' of Grotius has been converted into tidy stripes of jurisdiction, often vying for the same territory. In a typical example²⁵, the contiguous zone is a part of the high seas, if the coastal State has not declared an exclusive economic zone; otherwise, it becomes a part of the exclusive economic zone. Similarly, when no exclusive economic zone exists,

the waters above the continental shelf are the high seas; if, however, the coastal State establishes an exclusive economic zone, then the continental shelf becomes the seabed part of that exclusive economic zone²⁶.

In view of the multiplication and overlapping of these diverse zones, it becomes clear that one cannot proceed with the examination of the manifold manifestations of jurisdiction in the Law of the Sea Convention (Chapter 2) without a preliminary understanding of what jurisdiction is and how it works in international law generally and in the law of the sea in particular (Chapter 1); in other words, the tools of the trade.

A final comment is perhaps not necessary. Throughout this book, reference will be made to the provisions of the Law of the Sea Convention as identical to the rules of customary international law of the sea – except where it is clearly indicated otherwise. It is widely understood that the Law of the Sea Convention constituted a codification of customary rules, existing at the time, and contained also instances of progressive development of international law, which have become in a very short period of time customary rules in their own right²⁷. I believe that the record of State practice, including that of the United States²⁸, conspicuously absent so far from the world community adhering to this universal treaty²⁹, testifies to the general acceptance of its content as part of the general customary law of the sea. For it is, after all, a constitution for the oceans.

United Nations Convention on the Law of the Sea

The primary instrument governing the conduct of States in their uses of the oceans is the 1982 United Nations Convention on the Law of the Sea (—UNCLOS|| or —Convention||).³⁰ The importance of this treaty cannot be underestimated. UNCLOS is a constitutive treaty, setting out the rights and obligations of States and other international actors in different maritime areas and in relation to various uses of the oceans. The significance of UNCLOS is not only found in its far-reaching control over activities in all maritime zones, but also in the procedures it provides for States to resolve their differences in respect of competing claims.

UNCLOS is one of an extremely small number of global treaties that prescribe mandatory jurisdiction for disputes arising from the interpretation and application of its terms.³¹ International disputes are typically settled through diplomatic efforts and only submitted to adjudication or arbitration with the consent of the parties involved. To create a treaty that includes a mechanism for compulsory arbitration or adjudication for such a fundamentally important resource was a distinct deviation from the norm in international law and politics.

The creation of a dispute resolution system entailing compulsory procedures in the body of the Convention has been hailed by governments and commentators alike as one of the most significant developments in dispute settlement in international law, even as important as the entry into force of the United Nations Charter.³² Charney, for example, considered that the Convention contains —the most significant regime for the settlement of disputes, in general, found in modern multilateral agreements.||³³ At the conclusion of the conference on the negotiations of the Convention, the President of the conference proclaimed, —The world community's interest in the peaceful settlement of disputes and the prevention of use of force in the settlement of disputes between States have been advanced by the mandatory system of dispute settlement in the Convention.||³⁴ The significance of the dispute settlement mechanism has also been emphasized because of its role

in protecting the integrity of the compromise reached in formulating the substantive provisions. The binding and compulsory dispute settlement procedures were to be —the pivot upon which the delicate equilibrium of the compromise must be balanced||;³⁴ —the cement which should hold the whole structure together and guarantee its continued acceptability and endurance for all parties.||³⁵ Other commentators have been more cautious, or indeed skeptical, about the transformation of international dispute resolution through the conclusion of UNCLOS. Oda has argued that the exceptions and ambiguities render the mechanism comparable to traditional consent-based methods of dispute settlement.³⁷ Doubts have also been expressed about how inclusive the available procedures truly are. Notably, the assertion that UNCLOS provides a comprehensive and effective dispute settlement system has been undermined by one of the very tribunals constituted under the Convention.³⁶

Indonesian Sovereign Rights in the North Natuna Sea

Indonesia has a strong legal basis to defend its sovereignty in Natuna waters. On the other hand, Indonesia firmly rejects China's historical claim to the Indonesian Exclusive Economic Zone (ZEEI) in Natuna waters. In the official statement of the Indonesian Ministry of Foreign Affairs, there are three important points.

First, the historical claim of China (China) that Chinese fishermen have long been active in these waters has been unilateral, has no legal basis, and has never been recognized by UNCLOS 1982. This argument has been discussed and countered through the 2016 SCS Tribunal decision. The 'relevant waters' claimed by China because this term is unknown and inconsistent with the 1982 UNCLOS. Second, Indonesia urges China to explain the legal basis and clear boundaries per claim in ZEEI based on UNCLOS 1982. Third, based on UNCLOS 1982 overlapping claim with China so that they think it is irrelevant to have any dialogue about maritime boundary delimitation.

From the official statement it is clear that the Indonesian government is using an international legal basis which is commonly called UNCLOS 1982. What exactly is UNCLOS? This stands for United Nations Convention on The Law of the Sea (UNCLOS), which is often called the United Nations Convention on the Law of the Sea. Indonesia has ratified this Convention through Law no. 17 of 1985. Since then, Indonesia officially submitted to the 1982 UNCLOS regime.

This convention has an important meaning because the concept of an archipelagic state that Indonesia has fought for for 25 years has continuously succeeded in obtaining official recognition from the international community. UNCLOS is the result of UN Conferences on the law of the sea which took place from 1973 to 1982. To date, no less than 158 countries have declared to join the Convention, including the European Union.

This official international recognition embodies a unity of territory in accordance with the Djuanda Declaration on December 13, 1957. The Indonesian archipelago as a political, economic, socio-cultural and defense and security entity is no longer limited to the unilateral claim of the Indonesian government.

Archipelagic State according to UNCLOS 1982 is a country consisting entirely of one or more archipelagic groups and may include other islands. Archipelagic States can draw straight

archipelagic baselines connecting the outer points of islands and the outer dry reefs of the archipelago.

Included in the provisions of the convention is the Indonesian Exclusive Economic Zone in the waters of North Natuna. This time, Chinese ships dared to return to exploitation activities without permission in the region. Not only without permission, but also insisting on its unilateral claim to exploitation rights there. Claims that were not recognized to date by international law.

Strengthening Indonesia's maritime territory as regulated in UNCLOS 1982 has also been strengthened through Law no. 32 of 2014 concerning Marine. This law made the Djuanda Declaration 1957 in conjunction with UNCLOS 1982 as one of the important moments that became a pillar of strengthening the existence of Indonesia as a country. Two other moments were the 1928 Youth Pledge, and the Independence Proclamation on August 17, 1945. That is also why the issue of sovereignty over Natuna waters is very important for Indonesia. Foreign Minister Retno Marsudi emphasized that for decades the Natuna Sea belonged to Indonesia. This is in accordance with the provisions of the United Nations Convention for The Law of the Sea (UNCLOS) or the UN Convention on the Law of the Sea in 1982. On this basis, Indonesia will not recognize China's unilateral claim to these waters. "We urge China to respect the 1982 UNCLOS decision," said Retno in Jakarta, Friday (3/1).

Indonesia's sovereign rights, he continued, are in the Exclusive Economic Zone (EEZ) and the continental shelf. EEZ is an area 200 miles from the outer islands. In this EEZ area, Indonesia has the right to utilize all potential natural resources, including fish. The continental shelf is the area of the seabed and also the land underneath which is connected to the coast outside the territorial sea to a depth of 200 meters or more, as long as the depth of the sea water column above it is still possible to be explored and exploited.

"Indeed, the region is an open sea area, not owned by the state. But natural resources that are within the Exclusive Economic Zone and the Continental Shelf are given to the coastal states. This is where Indonesia manages the natural resources there. And if there are ships from other countries that want to take fish there, of course they must ask permission from Indonesia. So, China is questioning the sovereign right, "said Hikmahanto.



Figure 1: Map of the territory that is claimed by China, marked with nine dotted lines or nine-dashed lines.

He then highlighted a statement by the Chinese government that mentioned overlapping maritime rights claims. According to him, the Chinese government issued a map of the area of nine dashed lines or nine-dashed lines covering about 90% of the 3.5 million square kilometers of waters of the North Natuna Sea. The Indonesian Exclusive Economic Zone near the waters of the Natuna Islands, said Hikmahanto, is included in it.

—Part of the Indonesian Exclusive Economic Zone is considered by the Chinese government as a traditional fishing ground. And if we look at the nine-dashed lines map, it does overlap with the Indonesian Exclusive Economic Zone. However, the problem is, the Chinese government has no basis on UNCLOS (UN convention on the law of the sea) and international law. Their reasons are historical reasons," said Hikmahanto.

What the Indonesian government can do, as explained Hikmahanto, is to continue to deny China's claims."If the Indonesian government does nothing, of course China will say Indonesia will accept it. Then because they accept, it is considered as customary international law. As a consequence, Indonesia seems to recognize the nine-dashed lines and traditional fishing areas for Chinese fishermen," said Hikmahanto.

Sea Zone of a State

Indonesia is an archipelago with a very wide sea area. This causes the sea area to have a very important role for the life of the nation and state. Based on international maritime law agreed by the UN in 1982 in Montego, Caracas, the following is a picture of the division of sea areas according to the UN Convention on the Law of the Sea. The outer borders of the Indonesian oceans are divided

into three types, namely the territorial sea zone, the continental shelf zone and the Exclusive Economic Zone.

Territorial Sea Zone

The territorial sea zone is a zone bounded by an imaginary line which is 12 miles from the base line towards the open sea. If the width of the ocean bordering two countries is less than 24 miles, then the territorial lines are drawn equally far from each country. In this zone, the state has full sovereign rights, but provides peaceful shipping lanes both above and below the sea. Indonesian territorial sea was announced by the government on December 13, 1957, known as the Djuanda Declaration and strengthened by Law No. 4 of 1960.

Continental Shelf Zone

The continental shelf zone is the seabed, which geologically and morphologically is a continuation of a continent (continent) with a sea depth of less than 150 m. Indonesia is located between the continental shelf of Asia and Australia. In this zone, the government has the authority to make use of existing natural resources and is obliged to provide a peaceful passage. The boundaries of the continental shelf were announced by the Indonesian government on February 17, 1969.

Exclusive Economic Zone (EEZ)

The Exclusive Economic Zone (EEZ) is calculated from the seabed line straight to the open sea as far as 200 nautical miles. In this zone, the state can utilize marine resources for the welfare of the nation. Other countries have freedom of shipping, and laying cables and pipes below sea level. The Indonesian Exclusive Economic Zone (ZEEI) was announced on March 21, 1980. Until now, the government is still trying to expand the exclusive economic zone so that it can be used for the benefit of the nation and state. In 2017, the area of Indonesia's EEZ had expanded at least in five points, namely the border with Palau, the Indonesia-Philippines border in the Sulawesi sea, the presence of the North Natuna Sea, the Indonesian border in the Malacca Strait and the border in the Riau Strait.

Academics' Perception

Professor of International Law, Faculty of Law, Gadjah Mada University, Sigit Riyanto emphasized that the 1982 UNCLOS had been accepted by all UN members. "The Law of the Sea Convention is accepted by all UN members and has been in effect because it has been ratified by many countries," he told Hukumonline. He explained that UNCLOS 1982 set the conditions for a country to claim its territory. This is done by negotiating between the countries concerned, both bilaterally and multilaterally, to be stated in a written agreement.

UNCLOS Article 48 regulates the powers and rights of a country in the Convention. Professor of International Law, Faculty of Law, Padjadjaran University, Atip Latipulhayat, emphasized Indonesia's sovereign rights in the Exclusive Economic Zone on the basis of the 1982 UNCLOS in North Natuna. —Indonesia has stated that it is bound by the 1982 UNCLOS provisions which are the basis for protecting Indonesia's rights as an archipelagic country. This includes the 200-mile Indonesian Exclusive Economic Zone, ||said Atip when contacted separately.

Atip emphasized that the efforts that could be made by Indonesia were to be present effectively in the Exclusive Economic Zone area. Because the Exclusive Economic Zone is something that is called

a sovereign right. The sovereign rights are for the purpose of exploration, exploitation, management and conservation of natural resources both living and non-living in the water space and for other activities for economic exploration and exploitation of the zone, such as generating power from water, currents and wind.

He acknowledged that there is a difference between the territorial sea area as Indonesia's sovereign territory and Indonesia's sovereign rights in the Exclusive Economic Zone. Therefore, this offense by China is not the competence of an international tribunal. The way that can be done is to consistently emphasize Indonesia's physical presence in North Natuna waters. Regarding the consequences of violations committed by China are regulated in Article 111 UNCLOS 1982.

There is a right of hot pursuit mechanism. "Indonesia has the right to expel from the EEZ. Don't give a chance to negotiate, this is clearly Indonesia's right," he said. According to Atip, Indonesia's position as a non-permanent member of the UN Security Council is strong enough to uphold its commitment to international law. Moreover, China is in fact a permanent member of the Security Council which must set an example of ensuring international peace and security. "Indonesia should not soften because of its economic interests with China, if it does not obey the law everything will be damaged," he said. Atip distinguishes Indonesia's situation from the Philippines, which is still problematic about the boundaries of its Exclusive Economic Zone. There should be no loopholes to make Indonesia soften its sovereign rights in North Natuna waters based on the 1982 UNCLOS.

CONCLUSION

Based on UNCLOS 1982, an archipelagic country is a country consisting entirely of one or more archipelagic groups and may include other islands. Archipelagic States can draw straight archipelagic baselines connecting the outer points of islands and the outer dry reefs of the archipelago. So that Indonesia's sovereign rights, in the Exclusive Economic Zone (EEZ) and the continental shelf. EEZ is an area 200 miles from the outer islands. In this EEZ area, Indonesia has the right to utilize all potential natural resources, including fish. The continental shelf is the area of the seabed and also the land underneath which is connected to the coast outside the territorial sea to a depth of 200 meters or more, as long as the depth of the sea water column above it is still possible to be explored and exploited. Natuna Sea belongs to Indonesia.

Regulation

Articles 303 and 149 LOSC. For an overview see A. Strati, *The protection of the underwater cultural heritage: An emerging objective of the contemporary law of the sea* (Martinus Nijhoff, The Hague 1995); Tullio Scovazzi, *The protection of underwater cultural heritage*:

Article 303 and the UNESCO Convention, in David Freestone, Richard Barnes & David Ong (eds.), *The Law of the Sea. Progress and Prospects* (Oxford 2006) pp. 120-136; Anastasia Strati, *Protection of the underwater cultural heritage: From the shortcomings of the UN Convention on the Law of the Sea to the compromises of the UNESCO Convention*, in A. Strati, M. Gavouneli & N. Skourtos (eds.), *Unresolved Issues and New Challenges to the Law of the Sea* (Martinus Nijhoff, Leiden/Boston 2006) pp. 21-62. Mentioned also by Yoshifumi Tanaka, *Zonal and integrated management approaches to ocean governance: Reflections on a dual approach in the international law of the sea*, 19 *TIJMCL* 2004, pp. 483-514, at p. 485.

Article 56 paragraph 1 LOSC. See also François Pulvenis, *Zone économique et plateau continental: unité ou dualité*, 11-12 *Revue iranienne des relations internationales* 1978, pp. 103-120.

Article 8 LOSC.

Article 2 LOSC.

Articles 46-54 LOSC.

Article 33 LOSC

Article 55 LOSC

Article 86 LOSC

Article 76 LOSC

Article 1 paragraph 1(1) LOSC.

Presidential Proclamation No. 2667, Policy of the United States with respect to the natural resources of the subsoil and the sea bed of the continental shelf, 28 September 1945, 10 Federal Registry 12303, [1943-48] 3 CFR §68. It was further supplemented by Executive Order No. 9633, 28th September 1945, 10 Federal Registry 12305, [1943-48] 3 CFR §437. See also Donald Cameron Watt, *First steps in the enclosure of the oceans. The origins of Truman's Proclamation on the Resources of the Continental Shelf*, 3 *Marine Policy* 1979, pp. 211-214. Presidential Proclamation No. 2668, Policy of the United States with respect to coastal fisheries in certain areas of the high seas, 28 September 1945, 10 Federal Registry 12304, [1943-48] 3 CFR §68. Again it was further supplemented by Executive Order No. 9634, 28th September 1945, 10 Federal Registry 12305, [1943-48] 3 CFR §437. 4 *Whiteman's Digest of International Law* 1964, at p. 740. See, however, Georges Scelle, *Plateau continental et droit international*, *RGDIP* 1955, pp. 5-65.

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Footnotes

1. UNTS 396; 21 ILM 1982, pp. 1261-1354.

2. Thus the statement of Tommy T.B. Koh, President of the Third UN Conference on the Law of the Sea; see; see also Robin R. (Gavouneli,

3.)Churchill, 10 Years of the UN Convention on the Law of the Sea – Towards a global ocean regime? A general appraisal, 48 GYBIL 2005, pp. 81-116, at pp. 84-88; Shirley V. Scott, The Law of the Sea Convention as a constitutional regime for the oceans, in ((ed.), 2005) Bernard H. Oxman, The rule of law and the United Nations Convention on the Law of the Sea, 7 EJIL 1996, pp. 353-371. 3 P.J. Allott, Power-sharing in the Law of the Sea, 77 AJIL 1983, pp. 1-30.
4. For the history of the law of the sea in detail see D.P. O'Connell, The International Law of the Sea (vol. I, Clarendon, Oxford 1982) pp. 128; R.P. Anand, Origin and Development of the Law of the Sea: History of International Law Revisited (Martinus Nijhoff, The Hague 1983); Hugo Caminos & Vicente Marotta Rangel, Sources of the Law of the Sea, in René Jean Dupuy & Daniel Vignes (eds.), A Handbook of the New Law of the Sea (Martinus Nijhoff, Dordrecht 1991) pp. 29-139; T. Scovazzi, The evolution of international law of the sea: New issues, new challenges, 286 RCADI 2000, pp. 39-244, at pp. 55-121.
5. Anonymous, Mare liberum sive de jure, quod Batavis competit ad Indicana commercia, dissertatio (Ludguni Batavorum 1609); Hugo Grotius, The Freedom of the Seas (Carnegie Endowment for International Peace, New York, reprinted 1952). 6 J. Seldenus, Mare clausum seu de dominio maris libri duo (Londini 1635).
6. Article 56 paragraph 1 LOSC. See also François Pulvenis, Zone économique et plateau continental: unité ou dualité, 11-12 Revue iranienne des relations internationales 1978, pp. 103-120.
7. Continental Shelf Tunisia/Libyan Arab Jamahiriya, ICJ Reports 1982, available at ; see also Rudolf Bernhardt, Custom and treaty in the Law of the Sea, 205 RCADI 1987-V, pp. 247-330.
8. For an overview see the hearings on the Law of the Sea Convention before the Foreign Affairs Committee of the US Senate, available at ; see also John A. Duff, A note on the United States and the Law of the Sea: Looking back and moving forward, 35 ODIL 2004, pp. 195-219; John Norton Moore & William L. Schachte, Jr., The Senate should give immediate advice and consent to the UN Convention on the Law of the Sea: Why the critics are wrong, 50 Journal of International Affairs 2005, pp. 1-24, at p. 20.
9. The Law of the Sea Convention had, as of March 2007, 157 signatories and 153 ratifications; data available at . See also R.R. Churchill & A.V. Lowe, The Law of the Sea (3rd ed., Manchester University Press 1999) at p. 22.
10. United Nations Convention on the Law of the Sea, opened for signature December 10, 1982, 1833 UNTS 397.
11. The only other two treaties within this category are the United Nations Charter and the World Trade Organization Agreement. The UN Charter could even be excluded from this group, as the means of dispute resolution available under Chapter VII do not typically include mandatory adjudication or arbitration.
12. See, e.g., Alan E. Boyle, –Dispute Settlement and the Law of the Sea Convention: Problems of Fragmentation and Jurisdiction,|| 46 Int'l
13. & Comp. L.Q. 37 (1997); Louis B. Sohn, –Settlement of Law of the Sea Disputes,|| 10 Int'l J. Marine & Coastal L. 205 (1995); John Warren Kindt, –Dispute Settlement in International Environmental Issues: The Model Provided by the 1982 Convention on the Law of the Sea,|| 22 Vand. J. Transnat'l L. 1097, 1098--99 (1989).
14. Jonathan I. Charney, –Entry into Force of the 1982 Convention on the Law of the Sea,|| 35 Va. J. Int'l L. 381, 389 -- 90 (1995). 34 Statement by the President, in 17 Third United Nations Conference on the Law of the Sea: Official Records at 13, ¶ 48, UN Sales No. E.84.V.3 (1984).
15. Memorandum by the President of the Conference on doc. A/CONF.62/WP.9, UN Doc. A/CONF.62/WP.9/Add.1 (1976), reprinted in 5 Third United Nations Conference on the Law of the Sea: Official Records at 122, ¶ 6, UN Sales No. E.76.V.8 (1984) (explaining his initiative in preparing an informal single negotiating text on the settlement of disputes).
16. Boyle, –Dispute Settlement,|| at 38. 37 Shigeru Oda, –Some Reflections on the Dispute Settlement Clauses in the United Nations Convention on the Law of the Sea,|| in Essays in International Law in Honour of Judge Manfred Lachs 645, 655 (Jerzy Makarczyk ed., 1984). See also John King Gamble, Jr., –The Law of the Sea Conference: Dispute Settlement in Perspective,|| 9 Vand. J. Int'l L. 323, 341 (1976) (noting that the tendency of States is to claim more sovereignty over the oceans rather than relinquish that sovereignty to third-party dispute settlement); Gilbert Guillaume, –The Future of International Judicial Institutions,|| 44 Int'l & Comp. L.Q. 848 (1995).

17. Southern Bluefin Tuna Cases, Australia and New Zealand v. Japan, Award on Jurisdiction and Admissibility, (Australia v. Japan; New
18. Zealand v. Japan) (Arbitral Tribunal constituted under Annex VII of the United Nations Convention on the Law of the Sea, August 4, 2000), 39 ILM 1359 (2000), para. 62. (—It thus appears to the Tribunal that UNCLOS falls significantly short of establishing a truly comprehensive regime of compulsory jurisdiction entailing binding d (Klein, 2004)e