

**REPUBLIC OF TÜRKİYE
ANKARA UNIVERSITY
GRADUATE SCHOOL OF SOCIAL SCIENCES
DEPARTMENT OF MARITIME TRANSPORTATION LAW AND POLITICS**

**DISPUTE SETTLEMENT OF THE EXCLUSIVE ECONOMIC ZONE
DELIMITATION BETWEEN INDONESIA AND MALAYSIA IN THE NORTH
NATUNA SEA**

LLM Program with Thesis (conducted in English) in the Sea & Maritime Law

Rosmini YANTI

Ankara, 2025

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REPUBLIC OF TRKIYE
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I state that all the information in my master's thesis titled “**DISPUTE SETTLEMENT OF THE EXCLUSIVE ECONOMIC ZONE DELIMITATION BETWEEN INDONESIA AND MALAYSIA IN THE NORTH NATUNA SEA**” (2025, Ankara), which I prepared under the supervision of **Asst. Prof. Kbra VAR TRK**, was collected and presented in accordance with academic rules and ethical behaviour principles, I fully indicated the information I received from other sources in the text and the bibliography, I declare that I have acted in accordance with the ethical rules and I will accept any legal consequences in case the contrary arises.

Date: 01/07/2025
Rosmini YANTI

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ABBREVIATIONS

Act	: A Malaysian Parliament-Enacted Law or Statute
AMF	: ASEAN Maritime Forum
Art.	: Article/Articles
ASEAN	: Association of Southeast Asian Nations
CS	: Continental Shelf
EEZ	: Exclusive Economic Zone
ICJ	: International Court of Justice
IHO	: International Hydrographic Organisation
ITLOS	: International Tribunal for the Law of the Sea
IUU	: Illegal, unreported, and unregulated
JDA	: Joint Development Agreement
km	: Kilometre
LNG	: Liquefied Natural Gas
MoU	: Memorandum of Understanding
nm	: Nautical Mile
NO	: Number
p.	: Page
PCA	: Permanent Court of Arbitration
TAC	: Treaty of Amity and Cooperation
TALOS	: Technical Aspects on the Law of the Sea
TCF	: Trillion Cubic Feet
UN	: United Nations
UNCLOS	: United Nations Convention on the Law of the Sea, 1982
US	: The United States
Vol.	: Volume

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INTRODUCTION

A) SUBJECT MATTER, PURPOSE, AND RESEARCH QUESTIONS

Prior to the mid-twentieth century, all waters beyond the territorial sea and contiguous zone were regarded as high seas, devoid of any sovereign jurisdiction.¹ The shift from restricted fisheries zones to the contemporary notion of an Exclusive Economic Zone (EEZ) signifies a notable advancement in marine administration in the mid-20th century. This advancement was propelled by pragmatic and geopolitical factors, especially the initiatives of developing coastal nations to safeguard their resources, oversee fishing operations, and attain economic autonomy. Before the mid-20th century, countries primarily followed a restricted maritime jurisdiction of 3 nm from the shore, referred to as the "cannon-shot rule."² With advancements in fishing technology, countries possessing strong distant-water fishing fleets, such those from Europe, Japan, and the United States (US), commenced the exploitation of fish stocks located far from their own coasts, frequently intruding upon the fishing grounds of coastal nations.³

The EEZ was initially conceptualised by the US through a proclamation by Harry S. Truman in 1945, due to the nation's aspiration to use natural resources beyond its territorial boundaries yet in proximity to its territorial waters⁴ or known as "The 1945 Truman Proclamations". The provisions related to the EEZ are already stated in Article 55 of United Nations Convention on the Law of the Sea (UNCLOS) 1982.⁵ UNCLOS is the International Law of the Sea Convention ratified by Indonesia in 1985 through Law of the Republic of Indonesia Number 17 of 1985 on the ratification of UNCLOS, which was previously signed on December 10, 1982, in Montego Bay, Jamaica. Likewise,

¹ Louis B. Sohn, *Law of the Sea in a Nut Shell*, (2nd edn, West Publishing Co United States of America. 2010) 247.

² Aaron L. Shalowitz, *Shore and Sea Boundaries*, (US Government Printing Office Washington: 1962). 25.

³ Thomas Heidar, 'The Exclusive Economic Zone' (the 2024 Yeosu Academy of the Law of the Sea, Yeosu South Korea, 22 October 2024).

⁴ I Made Pasek Diantha, *Zona Ekonomi Eksklusif Indonesia Berdasarkan Konvensi Hukum Laut PBB 1982* (Mandar Maju, 2002) 196.

⁵ United Nations Convention on the Law of the Sea, (Montego Bay, adopted on 10 December 1982), (entered into force 16 November 1994), United Nations Treaty Series, 1998, Vol. 1833, p. 397 <https://www.un.org/depts/los/convention_agreements/texts/unclos/unclos_e.pdf> accessed 28 November 2024.

Malaysia has signed UNCLOS on December 12, 1982, together with 109 other countries when it was first opened for signature, then Malaysia ratified it on October 14, 1996.⁶

The EEZ is a zone located outside the territorial sea, with a width of 200 nautical miles (nm) measured from the coastal baseline as stated in Article 57 of UNCLOS. In relation to baselines, it consists of normal baselines, straight baselines and archipelagic baselines. Normal baselines are lines drawn at the furthest ebb, straight baselines are lines from the outermost islands drawn and connected to the outermost points, for archipelagic baselines are baselines used by archipelagic countries to measure their sea boundaries. This line is a straight line drawn connecting the outermost points of the outermost islands in the country's territory. The following is a detailed division of marine zones according to UNCLOS, including the EEZ:

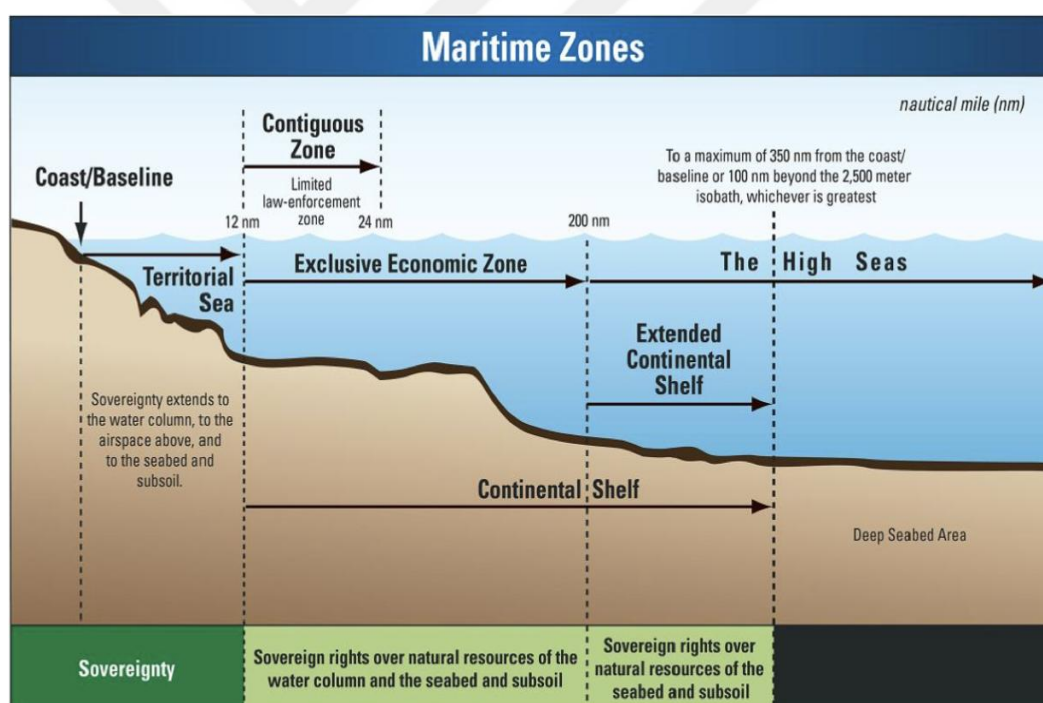


Figure 1: Maritime Zone Boundaries based on UNCLOS.⁷

⁶ H.E. Ambassador Hussein Haniff, Malaysia Permanent Mission to the United Nations, 'devoted to the commemoration of the thirtieth anniversary of the opening for signature of the 1982 United Nations Convention on the Law of the Sea' (2012) <https://www.un.int/malaysia/sites/www.un.int/files/Malaysia/67th_session/2012-12-11_unclos.pdf> accessed 28 November 2024.

⁷ Thomas Heidar, 'The Exclusive Economic Zone' (n 3).

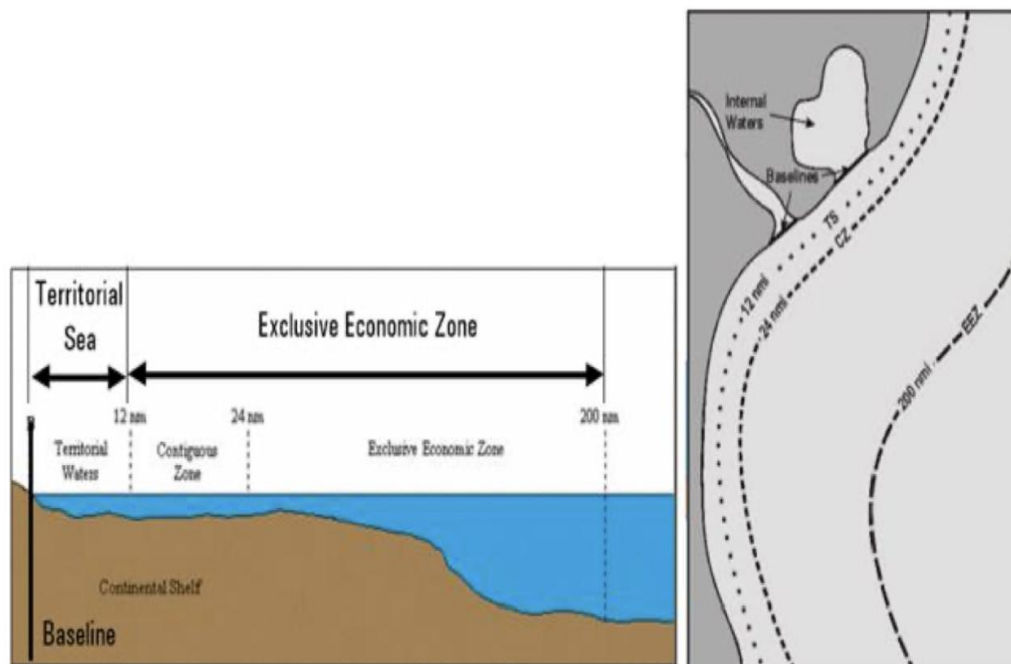


Figure 2: Special provisions for the EEZ.⁸

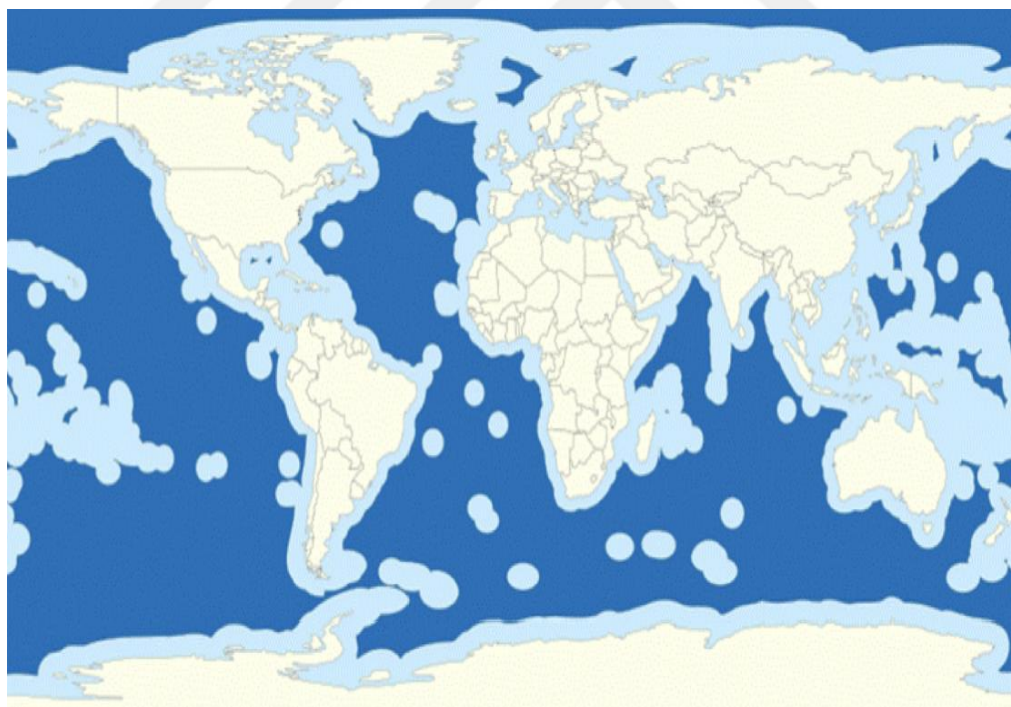


Figure 3: EEZs of the World.⁹

⁸ *Ibid.*

⁹ *Ibid.*

To establish the EEZ boundary with another state, a country must secure an agreement through an international treaty. If an agreement is unattainable, dispute resolution is necessitated pursuant to CHAPTER XV of UNCLOS, which encompasses a peaceful settlement. The EEZ boundary line must be delineated on a precise and exact scale, accompanied by a comprehensive set of coordinate points. Coastal nations must submit a copy of the map or a list of geographic coordinates to the Secretary-General of the United Nations (UN), as stipulated in Article 75 of UNCLOS.

Every country, including Indonesia and Malaysia, possess sovereign rights within the EEZ. Article 55 of UNCLOS delineates the following rights:

1. Exploration rights pertain to natural resource inventory activities within the EEZ.
2. Exploitation rights pertain to the management and utilisation of natural resources inside the EEZ.
3. Conservation rights are protective measures aimed at ensuring the sustainability of natural biological resource reserves within the EEZ.

In addition to utilizing natural resources in the EEZ waters, coastal states also have an obligation to maintain the ecosystem so that it continues to be sustainable. This has been regulated in UNCLOS in Chapter V on the EEZ Article 61 paragraph 2 which reads:

“The coastal State, taking into account the best scientific evidence available to it, shall ensure through proper conservation and management measures that the maintenance of the living resources in the exclusive economic zone is not endangered by over-exploitation. As appropriate, the coastal State and competent international organizations, whether subregional, regional or global, shall cooperate to this end.”

A coastal state must implement suitable conservation and management measures to prevent the over-exploitation of natural resources within the EEZ. UNCLOS mandates that in the preservation of natural resources within the EEZ, not only coastal states are responsible, but also international organisations at sub-regional, regional, and global levels must adhere to the conservation and management of these resources. Consequently, illegal fishing operations are unequivocally harmful to both foreign fishing vessels and native Indonesian fishers. In maintaining the ecosystem of natural resources in the EEZ,

coordination, communication and collaboration are needed from various sectors, including the international community in complying with the established international sea law regulations.

In addition, coastal states also have obligations that must be carried out which are stated in detail in Chapter 5 of the UNCLOS. The EEZ of a coastal state allows other countries to pass through the EEZ, some of the scopes that allow other countries when they are in the EEZ area are as follows:

1. Freedom of navigation and overflight;
2. The right to lay cables and pipelines, installations and structures in accordance with the provisions of the law of the sea concerning the CS and the EEZ;
3. The freedoms of the high seas referred to in articles 88 to 115, which cover various areas related to ships and navigation;
4. Access to fisheries surpluses not exploited by the coastal state.

Each country, including Indonesia and Malaysia, has a sovereign rights zone extending up to 200 nm from its coastline, known as the EEZ. This zone encompasses sovereign rights to explore, exploit, conserve, and manage both biological and non-biological natural resources. Indonesia's EEZ spans approximately 2,936,345 km².¹⁰ In detail, the area consists of:

No	Indonesia' EEZ	Note
1	North Natuna Sea	Bordered by Malaysia, Vietnam, and the South China Sea.
2	Sulawesi Sea	Bordered by the Philippines.
3	Pacific Ocean	In the north of Papua and North Maluku.
4	Indian Ocean	Covers the western region of Sumatra, southern Java, Bali, to Nusa Tenggara.

¹⁰ Willem Thobias Fofid, 'Strategi Pengembangan Pelayaran Perintis Dengan Analisa Swot Menuju Penguatan Program Tol Laut Dan Indonesia Sebagai Poros Maritim' (2019) *Journal Dinamika Bahari*, Vol 9 (2), 2307-2316.

5	Arafura Sea	Bordered by Australia to the south of Papua.
6	Malacca Strait	The EEZ is limited because it borders closely with Malaysia, Singapore, and Thailand.
7	Timor Sea	Bordered by Timor Leste and Australia.

Table 1: All area of Indonesia's EEZ

Malaysia has an EEZ encompassing approximately 334,671 km², located in the North Natuna Sea, Peninsular Malaysia, and East Malaysia.¹¹ Apart from the North Natuna Sea, where there is still overlapping area with Indonesia, Malaysia also still has several EEZ areas that overlap with the claims of neighboring countries, such as Vietnam, Thailand, Brunei and the Philippines.

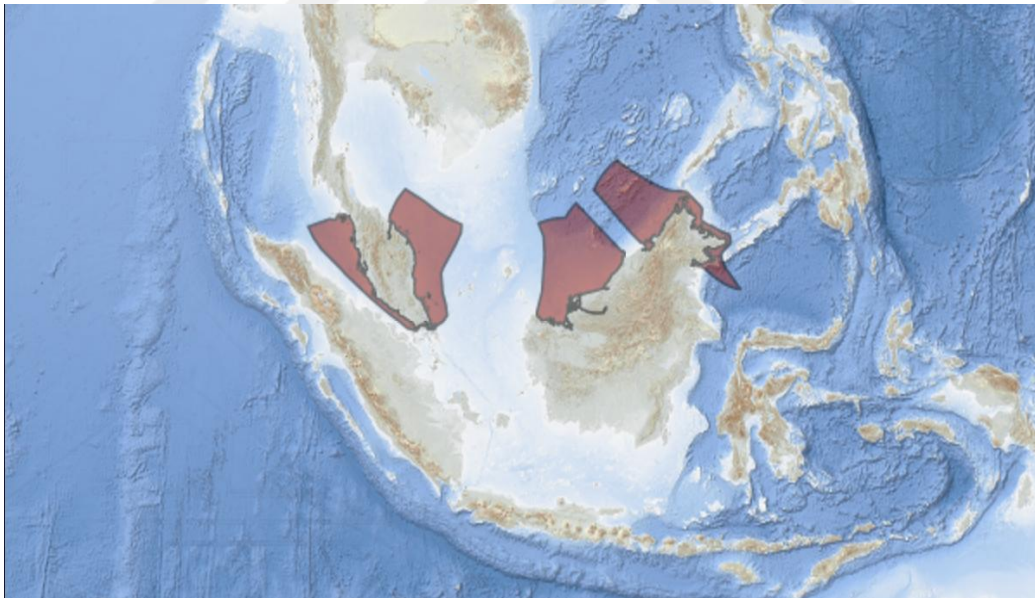


Figure 4: Map of Malaysia's EEZ.¹²

¹¹ Flanders Marine Institute, 'Malaysian Exclusive Economic Zone (EEZ)' (Marine Regions, 20 November 2019) <<https://www.marineregions.org/gazetteer.php?p=details&id=8483>> accessed 28 November 2024.

¹² *Ibid.*

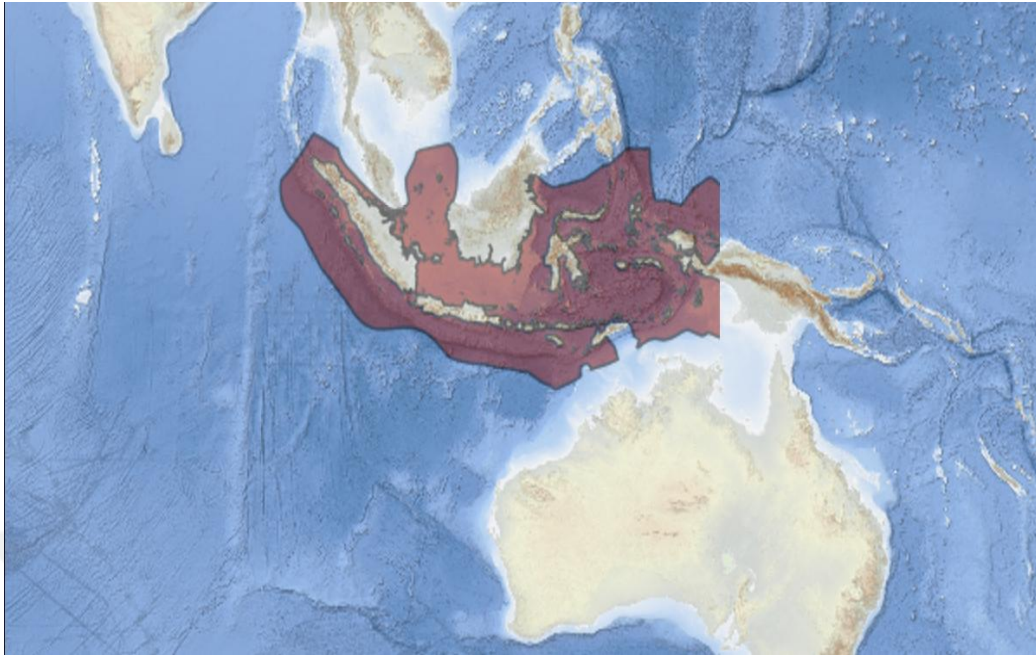


Figure 5: Map of Indonesia's EEZ.¹³

Monitoring of capture fisheries in the Indonesian EEZ is very necessary because in the Indonesian EEZ there are abundant resources. In addition to the capture fisheries sector, in the Indonesian and Malaysian EEZs there are also natural resources such as minerals and energy that need to be utilized optimally.

Indonesia has Law of the Republic of Indonesia No. 45 of 2009 on Amendments to Law of the Republic of Indonesia No. 31 of 2004 on Fisheries which discusses the EEZ. It is stated that the waters in the sovereign territory of Indonesia and the EEZ of Indonesia are areas that have very potential fish resources as a gift from God Almighty who has given a mandate to the Indonesian people to be utilized as much as possible in supporting the welfare and prosperity of the Indonesian people. Indonesia has a law that specifically regulates all activities in the EEZ area, Law of the Republic of Indonesia No. 5 of 1983 on the EEZ has regulated any activities carried out in the EEZ by both the Indonesian people and foreign citizens who carry out activities in the Indonesian EEZ.

¹³ *Ibid.*

Malaysia also has several national regulations governing the EEZ and fisheries sector, such as the EEZ Act (A law or Statue)¹⁴ 1984 (Act 311) and the Fisheries Act 1985 (Act 317). Act 311 establishes the legal framework for Malaysia's EEZ, granting sovereign rights for the exploration and exploitation of natural resources in the area. This Act covers marine resource management and protection of the marine environment. Act 317 regulates fisheries in Malaysian waters, including regulations for fish resource conservation, fishing permits and management of fisheries activities. This Act has been amended several times to update provisions related to the supervision of activities on the high seas and the protection of marine ecosystems.¹⁵

In relation to the EEZ, there is a significant potential for conflict between the rights expressly granted to the coastal State and other States within the EEZ. In exercising their rights and performing their duties under the UNCLOS in the EEZ, coastal States and other States must “*have due regard*” to each other’s rights and duties¹⁶. For many developing coastal States, such as Indonesia and Malaysia, it is a significant challenge to benefit from their sovereign rights over the natural resources in the EEZ, to fulfil their duties in the conservation and management of the living resources there and to prevent IUU fishing by foreign vessels through fisheries surveillance and enforcement, so capacity building is needed to enable these States to fully benefit from their EEZs.

Indonesia was acknowledged as an archipelagic country on a global scale through the UNCLOS. An archipelagic country is a country that consists entirely of one or more groups of islands and can include other islands.¹⁷ As an archipelagic country, Indonesia has the right to determine the boundaries of its maritime territory by drawing a baseline

¹⁴ In this context, "Act" refers to a law or statute that has been officially enacted by the Malaysian Parliament. It is a distinct legislative measure assigned a unique identifier. Each Act has its own specific title and is assigned a number based on the order of its enactment, making it easy to reference within Malaysia's legal framework.

¹⁵ Malaysian Fisheries Department, *Akta Perikanan 1985 (Akta 317): Pindaan 2019 (Akta A1601)* (2019) <<https://www.dof.gov.my/wp-content/uploads/2020/09/akta-perikanan-1975-akta-317-pindaan-2019-20190809-akta-a1601bm.pdf>> accessed 28 November 2024.

¹⁶ UNCLOS Art. 56 (2) and 58 (3).

¹⁷ UNCLOS Art 46.

that connects the outermost points on the outermost islands, reefs or ends of a country's territory.¹⁸

This situation means that Indonesia shares direct borders with many neighbouring countries. Out of the 13 regional borders that exist with neighbouring States, 10 of them are situated at sea. These maritime borders are specifically shared with Australia, India, Thailand, Malaysia, Singapore, Vietnam, the Philippines, the Republic of Palau, Timor Leste and Papua New Guinea. One of the sea areas that is at odds with many countries is the North Natuna Sea, which borders Vietnam and Malaysia. The border consists of the borders of the EEZ and the Continental Shelf (CS). The demarcation of the EEZ and the CS in the North Natuna Sea between Indonesia and Vietnam has been finalised. The demarcation of the Indonesia-Vietnam CS boundary was finalised on 26 June 2003, in Hanoi, Vietnam.¹⁹ The delimitation of the Indonesia-Vietnam EEZ was ultimately concluded on 23 December 2022, following a protracted period of 12 years of negotiations.²⁰ Unlike Malaysia, the boundaries of the CS were officially established in 1969, following the provisions of the initial United Nations Law of the Sea conference in 1958.²¹ However, the boundaries of the EEZ remained unresolved, with areas of overlap still existing.

The presence of ambiguous maritime boundaries and undefined maritime zones of a nation can lead to issues that may trigger tensions or disputes among neighbouring or proximate countries in that sea region. One of the violations that often occur in the EEZ of the North Natuna Sea is Illegal, Unreported, and Unregulated (IUU) fishing, as a result of the unclear status of the area so that Indonesian law enforcers find it difficult to enforce

¹⁸ UNCLOS Art. 47.

¹⁹ Agreement between the Government of the Socialist Republic of Vietnam and the Government of the Republic of Indonesia concerning the delimitation of the continental shelf boundary, No. 44165 (2003) United Nations Treaty Collection (2007) <<https://treaties.un.org/doc/publication/unts/no%20volume/part/i-44165.pdf>> accessed 20 November 2024.

²⁰ Aristyo Rizka Darmawan, 'What Does the Indonesia-Vietnam EEZ Agreement Mean for the Region?', Centre for International Law, National University of Singapore (2023), <<https://cil.nus.edu.sg/blogs/what-does-the-indonesia-vietnam-eez-agreement-mean-for-the-region/>> accessed 17 November 2024.

²¹ The Report of the Ministry of Defense of the Republic of Indonesia '*Konsep Penetapan Batas ZEE Indonesia-Malaysia di Laut China Selatan*' (2010) <https://www.kemhan.go.id/itjen/wp-content/uploads/2017/05/zee_lcs.pdf> accessed 11 November 2024.

the law against violators. For Indonesia, the Natuna waters have a very important meaning because the waters and islands are the outer boundaries of the Republic of Indonesia which determines Indonesia's sovereignty and sovereign rights. Apart from this, claims in the North Natuna Sea also have an impact on President Jokowi's era aspirations to build Indonesia as the world's maritime axis. This requires Indonesia to better protect its borders with other countries, especially maritime areas. Based on the description above, the researcher needs to analyze and research more about the dispute settlement of the EEZ delimitation between Indonesia and Malaysia in the North Natuna Sea which can then provide legal force in dealing with legal violations in the sovereign rights area of the two countries (Indonesia and Malaysia).

This thesis aims to conduct library-based research by means of analysis and investigation of present literature, regulations, contracts, and conventions. This thesis primarily addresses customary international law, especially the UNCLOS rules established. First, international sources are examined. Then, under more efficient clarification of the problem, sources including books, papers, and theses take front stage. A literature review is undertaken to analyze and establish the subject further. Ultimately, international court rulings and reports may serve as additional resources.

Given the ongoing situation, where the EEZ delimitation in the North Natuna Sea between Indonesia and Malaysia remains unresolved, and the necessity to enforce laws regarding territorial violations in the same area, it is imperative to establish a process to address the dispute settlement of EEZ delimitation between Indonesia and Malaysia in the North Natuna Sea. This is crucial to ensure the sovereign rights of both countries. To accomplish the goal of this thesis, research questions are formulated to address the issue at hand, specifically:

1. What are the legal precedents that have informed the delimitation of the EEZ between Indonesia and Malaysia?
2. How do the conflicting claims between Indonesia and Malaysia affect regional stability and cooperation?

3. What international laws, treaties, and conventions govern the delimitation of EEZs in the North Natuna Sea?
4. How do norms of state sovereignty and maritime entitlements intersect in EEZ disputes?
5. What are the possible legal and diplomatic approaches for resolving the EEZ disputes between Indonesia and Malaysia?
6. What are the challenges and opportunities in using bilateral negotiations versus third-party arbitration for dispute settlement?
7. What are the current legal frameworks governing law enforcement in overlapping EEZ areas of the North Natuna Sea?
8. How do Indonesia and Malaysia manage resources and security in the contested areas of the North Natuna Sea?
9. What are the key challenges faced by Indonesia and Malaysia in negotiating the EEZ boundaries in the North Natuna Sea?
10. What are the prospects for future negotiations and potential resolutions of the EEZ disputes?

B) SCOPE AND STRUCTURE

The scope of this thesis is to analyze the dispute settlement mechanisms for the EEZ delimitation between Indonesia and Malaysia in the North Natuna Sea, aligning with the contents outlined in the research plan. This study examines the complexities of the EEZ boundary issues, including overlapping claims, the strategic importance of the area, and the differences in baseline interpretations for Indonesia and Malaysia. By examining the historical and legal background of the dispute, as well as Indonesia's and Malaysia's strategic and economic interests in the North Natuna Sea, this research will provide a comprehensive foundation for understanding the sources of conflict.

The thesis will review relevant international law frameworks, particularly the UNCLOS, to assess how the law governs EEZ delimitations and the obligations of states pending a final agreement. The study will detail various dispute resolution mechanisms available under UNCLOS, including diplomatic negotiations, provisional arrangements, mediation, and judicial settlements through the International Court of Justice (ICJ), the International Tribunal for the Law of the Sea (ITLOS), and UNCLOS Annex VII arbitration. Each method's advantages and limitations will be considered in the context of Indonesia and Malaysia's bilateral relationship and the role of regional organizations and neutral parties.

C) APPROACH AND METHODOLOGY

The thesis will rely on a doctrinal approach, supported by primary sources such as international conventions and national regimes, alongside secondary sources, including books, articles, and reports. This research seeks to offer insights into the alignment of international dispute resolution practices with the principles of cooperation, stability, and equitable resource sharing in the EEZ boundary disputes.

I. BACKGROUND OF THE INDONESIA-MALAYSIA EEZ DISPUTE IN THE NORTH NATUNA SEA

A) GEOGRAPHICAL LOCATION AND IMPORTANCE OF NORTH NATUNA SEA

The North Natuna Sea is located in Southeast Asia and covers an area of 141,901 km². The water area in Natuna is larger than the land area, with 138,666 km² of sea and 3,235 km² of land, accounting for 2.4% of the total. The sea is composed of 271 major and small islands.²² Countries such as Vietnam, Malaysia, and Singapore are directly adjacent to Natuna waters. In addition to its substantial reserves of oil and natural gas, the North Natuna Sea possesses significant natural resources within its EEZ. Notably, the regional

²² Natsir, S.M et al 'Komunitas Foramenifera Bentik di Perairan Kepulauan Natuna' (2016), Vol 3(2), *Journal of Tropical Marine Science and Technology*, 21-31.

fisheries sector in this area can yield an impressive annual fish production of 1.24 million tonnes.²³

The North Natuna Sea is an attractive location for other nations seeking because of its economic potential due to its abundance of natural resources and fisheries, its nearness to other countries, and the existence of an unresolved EEZ delimitation. This zone is wealthy in pelagic and demersal fish, capturing the interest of neighbouring countries including Vietnam, the Philippines, China, Thailand, and Malaysia, which frequently engage in illegal fishing activities in the area.²⁴ According to illicit fishing data from the Indonesian Task Force 115, of the 234 individuals involved in fish smuggling, 191 violated the Indonesian CS in the North Natuna Sea, and 81% of all unlawful activity breached the EEZ limit.²⁵ Illegal fishing practices not only jeopardise the marine ecosystem but also undermine the sustainability of regional fish resources, ultimately detrimental to the economic and ecological well-being of Indonesia and Malaysia. Besides economic damages, illegal fishing in the North Natuna Sea jeopardises the sovereign rights of Indonesia and Malaysia. The presence of foreign vessels conducting illegal fishing in the EEZ without authorisation constitutes a breach of international law. Vessels frequently disable the Automatic Identification System to evade detection by relevant authorities, complicating law enforcement efforts.²⁶

In addition to fisheries, the North Natuna Sea possesses natural fishing resources estimated at 1 million tonnes per year and hydrocarbon reserves of 46 Trillion Cubic Feet

²³ Kenneth B. and Anne H.H. 'This Country Profile for Indonesia is from the Maritime Awareness Project' (2024) The National Bureau of Asian Research <<https://www.nbr.org/publication/indonesia/>> accessed 15 November 2024.

²⁴ Rio Adhitya and Yuriz Wibowo, 'Illegal Fishing di Laut Natuna Utara: Analisis Hukum Internasional dan Kebijakan Indonesia' (2022), Vol 10(2) *Journal of International Law*, 142-158.

²⁵ Andriamampionona L.Tienh *et al*, 'Efforts in maintaining fisheries potential in the North Natuna Sea: Indonesian government policy against illegal, unregulated, and unreported fishing seen from the Global Maritime Fulcrum perspective' *CABI Digital Library* <<https://www.cabidigitallibrary.org/doi/pdf/10.5555/20210374056>> accessed 27 November 2024.

²⁶ Marsdianto, Agis Winarna, and Bonifasius G. Andjioe, 'Strategy for Handling Illegal Fishing by the Baharkam Police Chief in the North Natuna Sea to Strengthen National Security' (2024) Vol 7 (2), *Journal of Education, Humaniora and Social Sciences*, 664-673.

(TCF), establishing it as one of the greatest gas source regions in Asia.²⁷ The plentiful fisheries resources and the region's proximity to other nations render the North Natuna Sea an attractive area for exploration by foreign countries seeking its wealth. Particularly those with sovereign rights in the North Natuna Sea EEZ, specifically Indonesia and Malaysia.

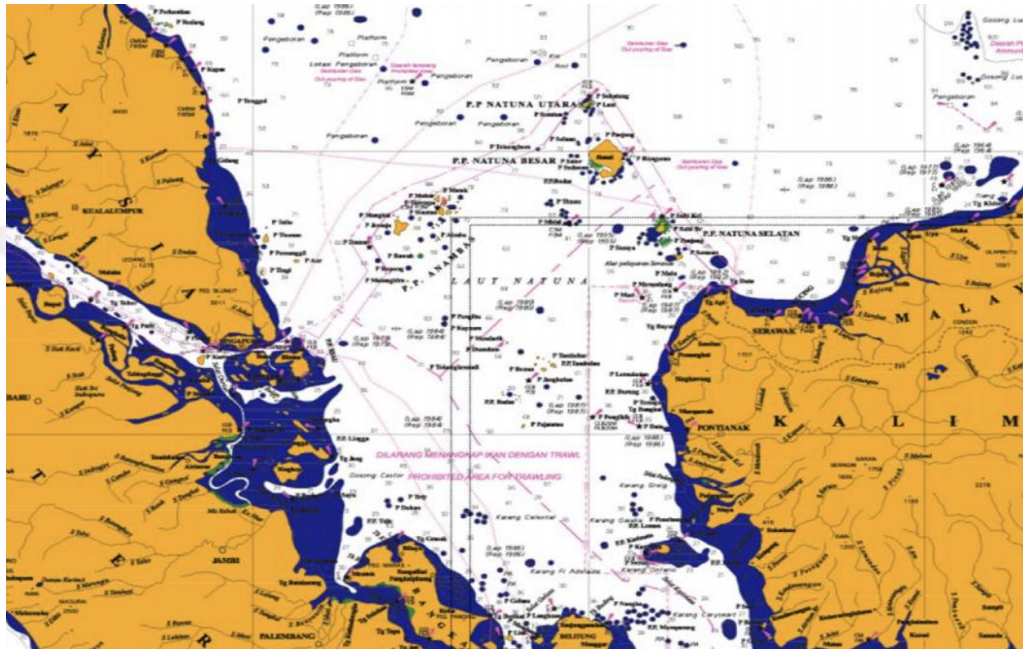


Figure 6: Map of the North Natuna Sea.²⁸

Each coastal state may optimise the extent of its EEZ in accordance with the UNCLOS, which extends 200 nm from the baseline. Additionally, the EEZ boundaries of Indonesia and Malaysia extend to the North Natuna Sea. The North Natuna Sea directly adjoins the South China Sea and falls within the EEZs of Indonesia, Malaysia, and Vietnam. In the North Natuna Sea EEZ, there exists not only a resolution of overlapping waters between Indonesia and Vietnam through bilateral agreements but also unresolved overlapping waters between Indonesia and Malaysia. Additionally, maritime disputes concerning

²⁷ Andreas Yoga Prasetyo, 'Sengketa Perairan, Pesona Kedaulatan di Natuna' (2020) <<https://www.kompas.id/baca/riset/2020/01/09/pesona-kedaulatan-di-natuna>> accessed 23 November 2024.

²⁸ Directorate General of Defense Strategy Defense Area Directorate, Ministry of Defense of the Republic of Indonesia 'Konsep Penetapan Batas Zona Ekonomi Eksklusif Indonesia-Malaysia' (2010) <https://www.kemhan.go.id/itjen/wp-content/uploads/2017/05/zee_lcs.pdf> accessed 11 November 2024.

China's claims regarding the "Nine-Dash Line" cause the complexity, therefore requiring an urgent settlement of the EEZ delimitation by Indonesia and Malaysia. Afterwards, the updated map resulting from the bilateral agreement on EEZ delimitation might be submitted to the International Hydrographic Organisation (IHO) forum.

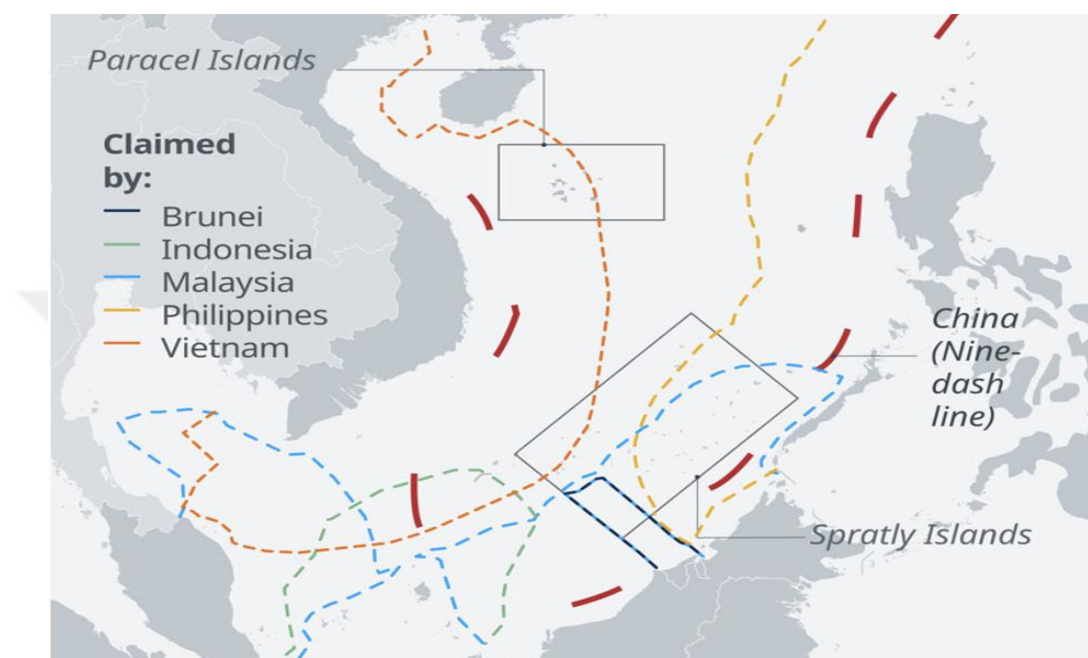


Figure 7: Map of Boundaries Disputes in the North Natuna Sea.²⁹

The North Natuna Sea region was determined and named by Indonesia based on the UNCLOS. The UNCLOS includes a procedure to establish an EEZ that can extend up to 200 nm from the Archipelagic Baseline. Indonesia's claim over the 200 nm of the North Natuna Sea includes the EEZ, which is also subject to claims by neighbouring nations, particularly Malaysia. Consequently, there exists an ambiguous situation in the North Natuna Sea. In 2017, the Indonesian government implemented a formalisation of the nomenclature “North Natuna Sea” upon the release of the revised map of the Unitary State of the Republic of Indonesia.³⁰ This action is also undertaken as a prerequisite for

²⁹ Syaiful W Harahap ‘Indonesia Diminta Tegas Menanggapi Protes China Terkait Natuna’ (2021) <<https://www.tagar.id/indonesia-diminta-tegas-menanggapi-protes-china-terkait-natuna>> accessed 27 November 2024.

³⁰ Antara news, ‘Indonesian Government Inaugurates Name of North Natuna Sea’ (2017) <<https://en.antaranews.com/news/111846/indonesian-government-inaugurates-name-of-n-natuna-sea>> accessed 10 November 2024.

formal registration at the IHO forum, to establish international recognition of Indonesia's sovereign rights in the region,³¹ despite the nonexistence of a definitive agreement on the exact boundary line between Indonesia and Malaysia.

B) HISTORICAL BACKGROUND OF EEZ DELIMITATION IN THE NORTH NATUNA SEA BETWEEN INDONESIA AND MALAYSIA

Indonesia and Malaysia had previously entered into a delimitation agreement in the CS of the North Natuna Sea, which was officially implemented on October 27, 1969.³² Indonesia and Malaysia have reached an agreement on 25 coordinate points: Points 1-10 in the Malacca Strait segment, Points 11-20 in the North Natuna Sea segment near the Malacca Peninsula, and Points 21-25 in the north-western part of Kalimantan Island (Sarawak). The agreement was recognised by the Indonesian government by Presidential Decree of the Republic of Indonesia Number 89 of 1969, which came into force on 15 November, 1969.³³ Meanwhile, Malaysia does not require specific national regulations to ratify this agreement, as its legal framework permits ratification via internal executive mechanisms without the need for any additional laws.

Negotiations on the delimitation of the EEZ in the North Natuna Sea have not been discussed specifically since 1997. The delimitation negotiations between Indonesia and Malaysia occur biannually, with Indonesia and Malaysia taking turns hosting the negotiations. The segments under negotiation encompass the Malacca Strait component, the Southern Malacca Strait component, the Eastern Singapore Strait component, the Sulawesi Sea component, and the North Natuna Sea component.

³¹ *Ibid.*

³² Agreement between the Government of Malaysia and the Government of Indonesia on the delimitation of the continental shelves between the two countries, 27 October 1969 <<https://www.un.org/depts/los/legislationandtreaties/pdf/treaties/mys-idn1969cs.pdf>> accessed 11 November 2024.

³³ Decree of the President of the Republic of Indonesia, Number 89 of 1969 on Ratification the Agreement Between the Republic of Indonesia and the Government of Malaysia on the Determination of the Continental Shelf Boundary Between the Two Countries <<https://peraturan.bpk.go.id/Details/105468/keppres-no-89-tahun-1969>> accessed 12 November 2024.

The maritime delimitation negotiations between Indonesia and Malaysia took place on six occasions in 2005, with the most recent negotiations taking place in Surakarta from November 28th to November 30th, 2005. Before 2016, there were a total of 30 maritime delimitation discussions conducted with Malaysia. The 30th event took place in Kuala Lumpur from July 17th to July 20th, 2016. As of the present day, a total of 37 negotiations have been conducted, with the most recent negotiation taking place in November 2020. The outcomes of the maritime delimitation negotiations between Indonesia and Malaysia have not yielded substantial results.

The resolution of the delimitations of the Indonesia-Malaysia EEZ, including the northern Natuna Sea, remains unresolved now due to the ongoing efforts of both nations to determine the territorial sea delimitations in various segments. Both countries prioritise the settlement of territorial sea delimitations on the priority scale due to their higher legal regime, which grants them full sovereignty. On 8 June 2023, the Ministers of Foreign Affairs of Indonesia and Malaysia entered into an Agreement Regarding the Determination of the Territorial Sea Delimitation between Malaysia and Indonesia in the southernmost part of the Melaka Strait. Additionally, an Agreement was signed between Malaysia and Indonesia regarding the Determination of the Second Regional Sea Delimitation in the Sulawesi Sea.³⁴ Regardless, a consensus has not been achieved regarding the EEZ in the North Natuna Sea.

³⁴ Arron N. Honniball 'Malaysia/Indonesia: Two Maritime Delimitation Agreements Signed' (2023) <<https://demaribus.net/2023/06/12/malaysia-indonesia-two-maritime-delimitation-agreements-signed/>> accessed 14 November 2024.



Figure 8: Map of Overlaps between Indonesia and Malaysia in the North Natuna Sea (Modified).³⁵

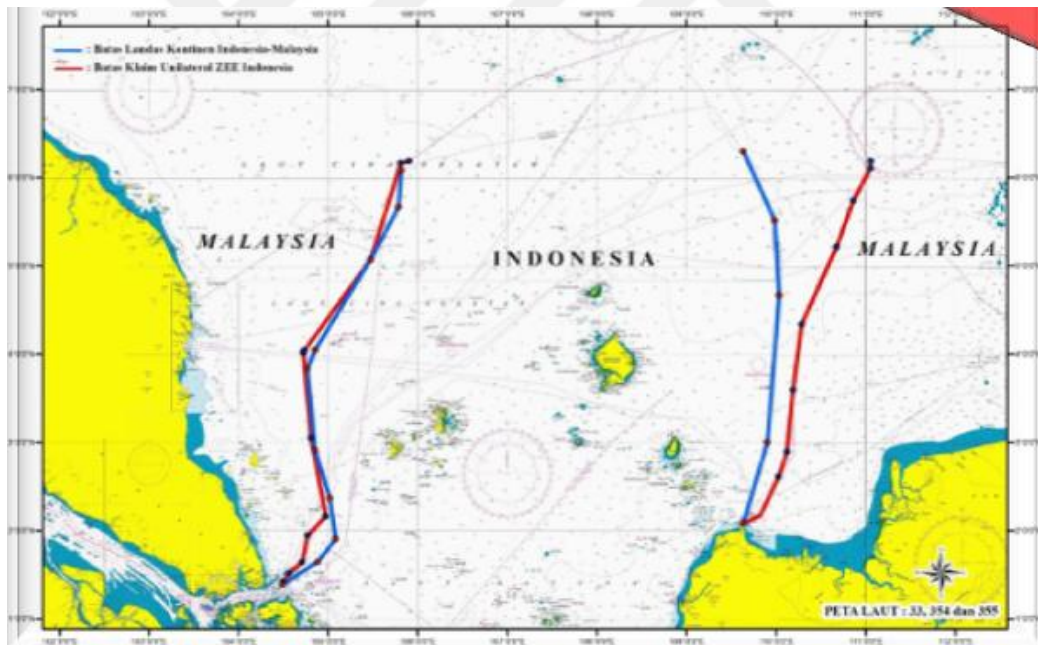


Figure 9: Map of CS Boundary Line (Blue) and Indonesia's Claim Boundary Line for EEZ (Red).³⁶

³⁵ Fauzan Fauzan 'Border Security Problems in the Waters of the Natuna Islands: Between National Boundaries and Illegal Fishing' (2019) <https://www.researchgate.net/figure/Map-of-Overlaps-in-North-Natuna-Waters-South-China-Sea_fig1_337840466> accessed 15 November 2024.

³⁶ Geospatial Information Agency of the Republic of Indonesia (2019) <<https://simpatig.big.go.id/peta/detail/198>> accessed 29 November 2024.

The position of Indonesia regarding the EEZ boundary has yet to be negotiated and delineated by the two nations, whereas Malaysia maintains a single line for both the EEZ and CS boundaries.³⁷ Before the EEZ regime became a part of international law, agreements regarding CS had already been reached between Indonesia and Malaysia. Furthermore, it was not anticipated or indicated that the agreed line would also apply as a water column jurisdiction vis-à-vis the EEZ; rather, the agreements were exclusively mentioned for a seabed jurisdiction.³⁸ Therefore, it can be stated there is no single line that defines the EEZ boundary between Indonesia and Malaysia, and as of now, there has been no agreement between the two nations over this boundary. This situation can generate conflict at the border within the framework of natural resource management.

II. SOURCES OF THE DISPUTE

A) OVERLAPPING CLAIMS AND AMBIGUITIES

Maritime delimitation refers to the establishment of maritime borders or jurisdictional authority between a nation and its neighbouring countries.³⁹ The establishment of distinct marine zone boundaries inside a nation ensures certainty and clarity about jurisdiction. Maritime delimitation is crucial for countries, particularly coastal states, since it enhances the effective and efficient management of marine ecosystems while bolstering legal certainty. Nonetheless, the absence of agreement on delimitation may lead to the potential for conflict or dispute between countries.

The ambiguity of a country's maritime zone status and ambiguous limits may lead to conflicts or disagreements with neighbouring countries bordering the sea area. Conflicts between countries usually result from different interpretations of a region that boundaries another country. According to the theory, an international conflict results between two or

³⁷ Hamzah, et al 'The Maritime Boundaries of Malaysia and Indonesia in the Malacca Strait: an Appraisal' (2014) *Australian Journal of Maritime and Oceans Affairs*, Vol. 6 (4), 207- 226.

³⁸ Eddy Pratomo 'Indonesia-Malaysia Maritime Boundaries Delimitation: A Retrospective' (2019) *Padjajaran Journal of International Law*, Vol. 3 (1), 18-28.

³⁹ I Made Andi Arsana, *Batas Maritim Antarnegara: Sebuah Tinjauan Teknis dan Yuridis*. (1st edn, Gadjah Mada University Press, 2007).

more nations when they have different thoughts on the execution of an agreement, consequently determining whether or not it should be followed.⁴⁰

To prevent boundary disputes, the supreme national legislation in Indonesia, specifically the amended 1945 Constitution, particularly Article 25A, mandates the government to establish a Law to delineate the nation's boundaries, serving as a framework for upholding the sovereignty and sovereign rights of the Republic of Indonesia. The article states in detail:

“The Unitary State of the Republic of Indonesia is an archipelagic country with the characteristics of the archipelago, with territories whose boundaries and rights are determined by law”.

Furthermore, Indonesia exists national laws and regulations pertaining to this issue:

No	Name of Law/Regulation	Regulated Entities
1	Law of the Republic of Indonesia Number 17 of 1985 on Ratification of UNCLOS 1985. ⁴¹	The legal framework for establishing marine boundaries encompasses territorial seas (12 nm), contiguous zones (24 nm), EEZs (200 nm), and CS.
2	Law of the Republic of Indonesia Number 6 of 1996 on Indonesian Waters. ⁴²	Clarifies the limits of the Indonesian archipelagic waters, encompassing territorial seas, internal waters, and contiguous zones. This section pertains to the principle of UNCLOS, which delineates Indonesia's sovereignty and sovereign rights over its national seas.

⁴⁰ Huala Adolf, *Hukum Penyelesaian Sengketa Internasional* (Sinar Grafika 2004).

⁴¹ Republic of Indonesia, *Law No. 17 of 1985 on the Ratification of the United Nations Convention on the Law of the Sea 1982* <<https://peraturan.bpk.go.id/Download/35773/UU%20Nomor%2017%20Tahun%201985.pdf>> accessed 5 January 2025

⁴² Republic of Indonesia, *Law No. 6 of 1996 on Indonesian Waters* <<https://peraturan.bpk.go.id/Details/45213>> accessed 5 January 2025.

3	Law of the Republic of Indonesia Number 32 of 2014 on Maritime Affairs. ⁴³	Regulating the administration and safeguarding of marine resources in Indonesian waters, as a means of reinforcing Indonesia's sovereign rights over the EEZ and CS.
4	Law of the Republic of Indonesia Number 43 of 2008 on State Territory. ⁴⁴	Establishing a legal framework for the delimitation of national boundaries, encompassing maritime limits. Facilitating inter-agency collaboration for national border administration.
5	Law of the Republic of Indonesia Number 5 of 1983 on the Exclusive Economic Zone. ⁴⁵	Governs Indonesia's authority to manage and exploit natural resources inside the EEZ, which extends 200 nm from the baseline.
6	Government Regulation of the Republic of Indonesia Number 38 of 2002 on the List of Geographic Coordinates of the Baseline of the Indonesian Archipelago. ⁴⁶	Establishing the coordinates of the baselines utilised as a reference for measuring territorial waters, contiguous zones, EEZs, and CS.

⁴³ Republic of Indonesia, *Law No. 32 of 2014 on Maritime Affairs* <<https://jdih.kkp.go.id/Homedev/DetailPeraturan/10>> accessed 5 January 2025.

⁴⁴ Republic of Indonesia, *Law No. 43 of 2008 on State Territory* <<https://peraturan.bpk.go.id/Details/38684>> accessed 5 January 2025.

⁴⁵ Republic of Indonesia, *Law No. 5 of 1983 on the Exclusive Economic Zone* <https://portal.ahu.go.id/uploads/uploads/dl/PP_UU/Dit.HIOP/hukum-laut-udara-lingkungan/hukum-laut/UU%20No.%205%20Tahun%201983.pdf> accessed 5 January 2025.

⁴⁶ Republic of Indonesia, *Government Regulation No. 38 of 2002 on the Geographic Coordinate List of Baselines for Indonesian Archipelagos* <<https://jdih.kkp.go.id/peraturan/pp-38-2002.pdf>> accessed 5 January 2025.

7	Government Regulation of the Republic of Indonesia Number 37 of 2008 on the Rights and Obligations of Foreign Ships in Crossing Archipelagic Sea Lanes. ⁴⁷	Regulating archipelagic sea lanes that can be passed by foreign ships while still respecting Indonesia's sovereignty.
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Table 2: Indonesian National Law Governing Maritime Areas.

Likewise with Malaysia, apart from being a country that ratified UNCLOS. Malaysia also tries to avoid maritime territorial disputes by having national regulations on state territorial boundaries, in detail as follows:

No	Name of Law/Regulation	Regulated Entities
1	Law of Malaysia, Federal Constitution 1963 (amendments up to P.U.(A) 164/2009) ⁴⁸	The Constitution grants the federal government the power to manage foreign affairs, encompassing international contacts and treaties concerning geographical boundaries.
2	The Exclusive Economic Zone Act 1984 (Act 311). ⁴⁹	Establishing the limits of Malaysia's EEZ in conformity with the UNCLOS

Table 3: Malaysian National Law Governing Maritime Areas.

Although *de jure* both countries have attempted to issue various related national regulations to avoid overlapping claims and ambiguities regarding their countries' boundaries, *de facto* until now there has been no definitive agreement regarding the EEZ

⁴⁷ Republic of Indonesia, *Government Regulation No. 37 of 2008 on the Rights and Obligations of Foreign Ships Passing Through Archipelagic Sea Lanes* <<https://peraturan.bpk.go.id/Details/52450>> accessed 5 January 2025.

⁴⁸ Malaysia, *Federal Constitution* (amendments up to P.U.(A) 164/2009) <https://www.jac.gov.my/spk/images/stories/10_akta/perlembagaan_persekutuan/federal_constitution.pdf> accessed 5 January 2025.

⁴⁹ Malaysia, *Exclusive Economic Zone Act 1984 (Act 311)* <https://www.un.org/depts/los/LEGISLATION_ANDTREATIES/PDFFILES/MYS_1984_Act.pdf> accessed 5 January 2025.

boundary in the North Natuna Sea between Indonesia and Malaysia. Thus, there is still homework for both countries to be completed immediately in accordance with international law of the sea and the national regulations of the countries concerned.

The ambiguous area in the North Natuna Sea, where the boundaries of the two nations remain unresolved, permits both parties to exercise rights over natural resource management. According to International Sea Law, specifically UNCLOS, both countries possess equal entitlement to assert claims over this area, with each entitled to an EEZ.

The ambiguity in the determination of the EEZ boundary between Indonesia and Malaysia arises from the proximity of the Malaysian coastline in Sarawak to the Natuna Islands in Indonesia. Although UNCLOS provides guidelines for the determination of EEZ boundaries, the different guidelines and principles of the two countries have been a long debate because each country wants a fair result from its perspective. For example, the principle of equidistance is often debated by countries that want a fair result. In the context of the North Natuna Sea, Malaysia claims an area that is closer to the Natuna Islands, arguing for adjustments based on the configuration of the coastline. Meanwhile, Indonesia adheres to the principle of equidistance in accordance with the provisions of the UNCLOS. Malaysia's claim is based on the CS doctrine and the configuration of the coastline which is considered to give rights to certain areas in the North Natuna Sea. In contrast, Indonesia uses the equidistant line principle to determine the EEZ boundary, which is measured from the archipelagic baseline in accordance with UNCLOS.⁵⁰

The economic potential of the region is a primary source of ambiguity. The North Natuna Sea is thought to possess huge oil and gas deposits, leading both nations to assert their rights more vigorously. Indonesia has been diligently enhancing its energy infrastructure in the region, whilst Malaysia has intermittently contested Indonesia's exploration rights. These efforts highlight the necessity for precise delimitation to prevent escalation.⁵¹

⁵⁰ Yayat Ruyat, 'Peran Indonesia dalam Menjaga Wilayah Laut Natuna dan Menyelesaikan Konflik Laut Tiongkok Selatan' (2017) 29 *Journal Lemhanas RI*, 67-75.

⁵¹ Robert Beckman, 'UNCLOS and Its Impact on Maritime Boundary Disputes in Southeast Asia' (2013) 3(2) *Asian Journal of International Law*, 214-246.

The ambiguous status of the EEZ boundary presents risks of misinterpretation and potential conflict regarding fishing rights, navigation, and resource exploitation. The ambiguity compromises both nations' capacity to present a cohesive stance against external assertions. It further complicates international sea law enforcement and regional security initiatives.⁵²

Despite the North Natuna Sea lacks the intensity of disputes found in other parts of the South China Sea, the conflicting EEZ claims between Indonesia and Malaysia underscore the intricacies of maritime delimitation. Resolving these ambiguities requires a combination of bilateral negotiations, compliance with international law, and cooperative management of shared resources. In the absence of a definite agreement, the potential for disagreements would endure, jeopardising regional stability and bilateral relations between the two nations.

B) ECONOMIC AND STRATEGIC INTERESTS

The North Natuna Sea is located at the southern extremity of the South China Sea, an area of significant geopolitical and economic value. The region possesses extensive quantities of oil and natural gas, rendering it an energy-abundant area crucial for the economic advancement of adjacent countries. The region functions as a crucial maritime corridor linking international commerce routes and facilitating regional connections. The North Natuna Sea, a part of the South China Sea, holds strategic significance for international trade. Annually, about one-third of global shipping transits through the region, conveying cargo valued in the trillions of dollars.⁵³ Exercising control over this canal ensures not just economic gains but also considerable geopolitical benefits. The North Natuna Sea is a maritime region that serves as a principal shipping route, situated between East Asia and the Middle East.⁵⁴ East Asia acts as the driving force of the global economy, whilst

⁵² Hasjim Djalal, 'Indonesian Maritime Boundaries and Disputes' (2012) 9 (4) *Indonesian Journal of International Law*, 538-560.

⁵³ Robert D. Kaplan. (2014). *Asia's Cauldron: The South China Sea and the End of a Stable Pacific*. Random House.

⁵⁴ Rosmini Yanti and Wahyu Taufiqurahman, 'Pengaruh Klaim Wilayah di Laut Natuna Utara terhadap Ekonomi dan Keamanan Maritim' Proceeding Research of Marine Socio-Economic Research Policy and fishery 2020. ISBN:97823_7651_67_3 (Marine and Fisheries Research and Human Resources Agency, Ministry of Marine Affairs and Fisheries of the Republic of Indonesia, 2020) 291, 293.

the Middle East functions as the world's energy hub; thus, the EEZ in the North Natuna Sea possesses significant strategic regional importance due to unresolved EEZ delimitation issues.

The North Natuna Sea is a centre of economic significance because to its substantial hydrocarbon resources. The region is believed to harbour substantial oil and natural gas deposits, with Indonesia actively investigating and developing its concessions.⁵⁵ Crucial blocks, including the Tuna Block, are essential to Indonesia's energy security policy. Malaysia perceives the region as essential for enhancing its energy supplies.

The North Natuna Sea is one of the greatest sources of Liquefied Natural Gas (LNG) globally and is used as a source of oil and gas in Asia. One of the natural gas and oil resources in the North Natuna Sea is believed to contain over 500,000,000 barrels of oil, with a petroleum content of roughly 14,386,470 barrels.⁵⁶ The East Natuna block, discovered in 1973, contains Indonesia's largest gas reserve, with a potential gas volume of 222 TCF, although proven reserves amount to only 46 TCF. This is significantly greater than the Masela block's reserves of 10.7 TCF. According to the Ministry of Marine Affairs and Fisheries of the Republic of Indonesia, the North Natuna Sea yields 1,421 tonnes of lobster, 2,318 tonnes of crab, 9,711 tonnes of prawns and 23,499 tonnes of squid.⁵⁷

The North Natuna Sea, situated within Indonesia, is a maritime region rich in natural resources and encompasses an island located in the northern part of the country, serving as its outermost island. In accordance with the Indonesian maritime economic concept, the exploitation of natural resources in North Natuna aligns with Article 33 Paragraph (3) of the 1945 Constitution, which stipulates that state control and utilization should be directed towards maximizing the welfare of the populace. This economic strategy

⁵⁵ Robert Beckman and Clive Schofield "Energy Resources in the South China Sea: Challenges and Opportunities." *Asian Journal of International Law*, (2021) 11 (3), 347-372.

⁵⁶ Anisa Purwatiningsih, 'Eksplorasi dan Eksploitasi Pertambangan Minyak dan Gas Bumi di Laut Natuna Bagian Utara Laut Yurisdiksi Nasional Untuk Meningkatkan Kesejahteraan Masyarakat di Pulau Natuna' *Journal Reformasi* (2012) Vol 2(2) 61.

⁵⁷ H Kusuma, 'Diintai China, Ini Dia Kekayaan RI di Laut Natuna' (Detik, 2020) <<https://finance.detik.com/berita-ekonomi-bisnis/d-4855261/diintai-china-ini-dia-kekayaan-ri-di-laut-natuna/2>> accessed 8 December 2024.

necessitates the comprehensive advancement of the nation's economic sovereignty across its entire territory, including North Natuna, situated within Indonesia's EEZ.⁵⁸ The North Natuna Sea is classified within Fisheries Management Area 711 of the Republic of Indonesia, encompassing the Natuna Sea, North Natuna Sea, and Karimata Strait.

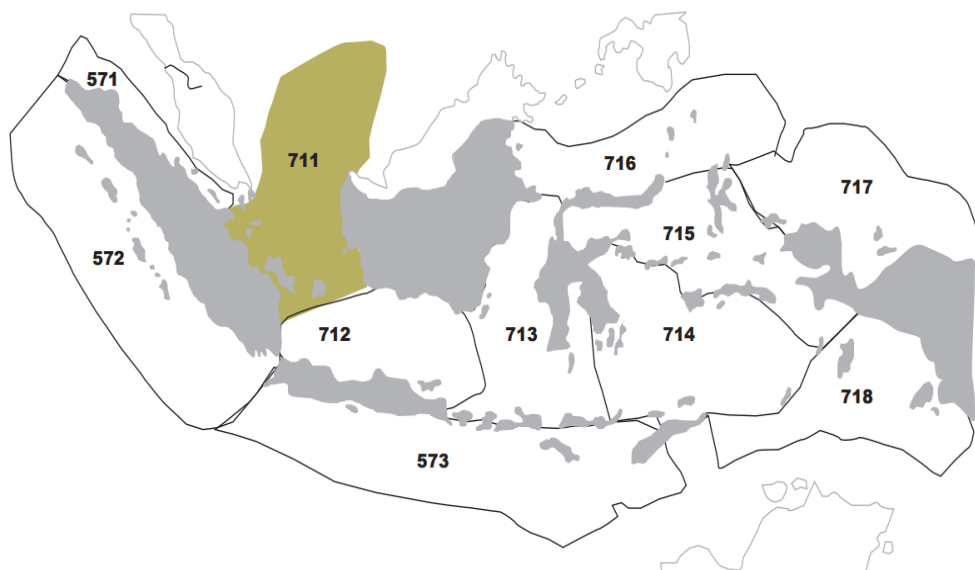


Figure 10: Map of the Fisheries Management Area of the Republic of Indonesia 711.⁵⁹

The North Natuna Sea possesses significant potential, particularly in the fisheries, oil, and natural gas extraction industries. The Natuna Regency Government reports that the North Natuna Sea possesses fishing resources exceeding 1 million tonnes annually.⁶⁰ Based on the Decree of the Minister of Marine Affairs and Fisheries of the Republic of Indonesia Number 19/Kepmen-KP/2022 on the Estimation of Potential, Allowable Catch, and Level of Utilization of Fish Resources in the State Fisheries Management Area of the Republic of Indonesia, for Natuna Regency, it is included in the State Fisheries Management Area of the Republic of Indonesia 711 with a Sustainable Potential of $\pm 1,306,379$ Tons/Year

⁵⁸ Indah Dwi Qurbani, Mieke Yustia Ayu Ratna Sari, Andri Yanto, and Faidatul Hikmah, 'About an Oil and Natural Gas Mining Treaty in the High Seas of the North Natuna Region with Economic, Legal and Environmental Aspects' *Juridical Tribune - Review of Comparative and International Law* (2024) Vol 14 (2), 309.

⁵⁹ Ministry of Marine Affairs and Fisheries Meeting Documents <https://jdih.kkp.go.id/bahanrapat/bahanrapat_04012022133730.pdf> accessed 8 December 2024.

⁶⁰ *Natuna: Potensi dan Peluang Investasi di Kabupaten Natuna* (2018) <<https://natunakab.go.id/potensi-dan-peluang-investasi-di-kabupaten-natuna/>> accessed 8 December 2024.

which includes the Karimata Strait Waters, Natuna Sea and North Natuna Sea. The potential for capture fisheries in Natuna Regency is mostly located in the North Natuna Sea fisheries management area which directly borders the South China Sea with the boundaries of the Indonesian EEZ to the line connecting 04°S and 106°E with 03°S and 111°E.⁶¹

No	Fish Resource Group	Potential (Ton)	Amount of Fish Catch Allowed (Ton)	Utilization Rate
1	Small Pelagic Fish	536.917	375.842	0,9
2	Large Pelagic Fish	163.744	114.621	0,7
3	Demersal Fish	289.300	202.510	0,8
4	Coral Reef Fish	197.580	138.306	0,5
5	Penaeid Shrimp	71.810	50.267	0,6
6	Lobster	1.467	734	1,1
7	Crab	3.388	1.694	1,9
8	Blue Swimming Crab	9.804	4.902	1,2
9	Squid	32.369	22.658	0,5
Total		1.306.379	911.534	

Table 4: Estimation of Potential and Level of Utilization of Fishery Resources in the North Natuna Sea.⁶²

The location of traditional and large fisher's fishing is around the waters, including around Bunguran Besar Island, the Natuna Island Coast, Midai, Serasan Island, Tambelan, and the South China Sea. The types of fish that are predominantly caught are: Tuna, Ariid Catfish, Shark, Mackerel, and Sardinella. While the types of reef fish that have important economic value are Napoleon Fish, Grouper, Snapper, Yellowtail Selar,

⁶¹ *Buku Saku 2024: Data 2023* <<https://diskan.natunakab.go.id/wp-content/uploads/2024/07/BUKU-SAKU-2024-DATA-2023.pdf>> accessed 8 December 2024.

⁶² *Ibid.*

Kuwe, and Stingray.⁶³ The following is the amount of capture fisheries production in 2023:

No	Commodity Type	Production (Ton)
1	Grouper	4,254.67
2	Rabbitfish	4,013.10
3	Stingray	2,096.20
4	Mackerel	4,382.78
5	Red Snapper	3,224.41
6	Angoli	6,104.39
7	Threadfin	2,843.12
8	Croaker	6,322.43
9	Emperor fish	7,333.56
10	Ocean sunfish	3,257.65
11	Pony Fish (<i>Kaci/Sapai</i>)	2,179.93
12	Skipjack Tuna	<u>17,864.15</u>
13	Pony Fish (<i>Kalat</i>)	1,290.72
14	Mackerel (<i>Mahan</i>)	6,786.52
15	Yellowfin Tuna	3,284.66
16	Spanish Mackerel	2,377.88
17	Anchovy	5,288.59
18	Flying Fish	6,721.39
19	Giant Sea Catfish	2,257.65
20	Mackerel (<i>Tamban</i>)	5,266.84
21	Shark	1,519.21
22	Snapper	1,977.57
23	Moluccan Snapper	3,173.74
24	Mullet	1,815.07
25	Black Pomfret	1,570.01

⁶³ *Ibid.*

26	Stone Loach	1,540.77
27	Barracuda	1,606.36
28	Other Species	12,835.68
29	Swimming Crab	2,022.90
30	Squid	5,101.22
31	Cuttlefish	1,473.23
32	Lobster	1,613.90
33	Octopus	1,771.10
Amount		135,171.42

Table 5: Total Capture Fisheries Production by Fish Species in 2023 in the North Natuna Sea.⁶⁴

In 2023, the total production amounted to 135,171.42 tonnes, which includes exceptional marine fish commodities such as Skipjack Tuna, Mackerel Tuna, Big-eyed Scad, Grouper, Trevally, Anchovy, and Flying Fish.⁶⁵

Total Capture Fisheries Production	Ton	Year
Total Capture Fisheries Production	87.248,26	2018
	104.879,81	2019
	120.583,25	2020
	132.632,62	2021
	134.874,55	2022
	135.171,42	2023
Total	580.218,49	

Table 6: Capture Fisheries Volume Data 2018-2023.⁶⁶

⁶⁴ *Ibid.*

⁶⁵ *Ibid.*

⁶⁶ *Ibid.*

Based on the data above, the production of capture fisheries in the North Natuna Sea continues to increase every year. Given the abundance of natural resources in the EEZ and the growing interest in fishing, Indonesia and Malaysia, which possess sovereign rights in the North Natuna Sea EEZ, must persist in efforts to resolve the delimitation of the EEZ to elucidate the boundaries and water rights of each nation.

The North Natuna Sea contains some of the most abundant fishing grounds in Southeast Asia, sustaining the livelihoods of numerous fishers from Indonesia and Malaysia. Marine biodiversity substantially enhances local food security and the economy. Nonetheless, conflicting claims frequently result in disputes, particularly with the incursion of foreign fishing vessels into the contested region.⁶⁷

The Natuna waters hold significant importance for Indonesia, as they represent the outermost frontier of the Republic of Indonesia, thus defining the nation's sovereignty. If this region remains contentious and is contested by other nations in the future, the nation's sovereign rights will again be jeopardised. Furthermore, assertions in the North Natuna Sea influence the aspirations of the Jokowi governance to establish Indonesia as the global maritime axis. This necessitates Indonesia to enhance the protection of its border regions with neighbouring countries, particularly maritime zones.

Given the significance of the North Natuna Sea for global trade and its high conflict resilience, along with its substantial maritime resources, particularly in fisheries and energy, negotiations for the delimitation of the EEZ boundary must be promptly resumed. The North Natuna Sea, characterised by its broad waters and closeness to other nations, is a highly advantageous location for illegal fishing due to its abundant fish resources.

⁶⁷ RS Pomeroy et al, 'Fisheries Management Challenges in the South China Sea' (2018) 94 *Marine Policy* 78, 85.

C) THE DIFFERENT BASELINE FOR ARCHIPELAGIC STATE (INDONESIA) AND COASTAL STATE (MALAYSIA) REGARDING EEZ DELIMITATION IN THE NORTH NATUNA SEA

Within the framework of international law of the sea, baselines are crucial for establishing sea boundaries or delimitation, which also provide a reference point for a nation's maritime jurisdiction. According to the rules of UNCLOS, baselines are categorized into three types: ordinary baselines⁶⁸, straight baselines⁶⁹, and archipelagic baselines⁷⁰.

The EEZ shall not exceed 200 nm from the baseline used to define the breadth of the territorial sea.⁷¹ The EEZ is an area beyond and adjacent to the territorial sea, subject to a specific legal framework that delineates the rights and jurisdiction of the coastal State alongside the rights and freedoms of other States, as mandated by UNCLOS.⁷²

Each coastal state must guarantee legal clarity in the delimitation of the EEZ, as it influences various maritime activities, including marine tourism, fishing, transportation, offshore exploration, and investments in the marine sector. For developing countries such as Indonesia and Malaysia, the establishment of the delimitation of the EEZ is essential, as it ensures their rights to access and manage marine resources, both biological and non-biological, as outlined in Article 56 of UNCLOS:

“(1) In the exclusive economic zone, the coastal State has (a) sovereign rights for exploring and exploiting, conserving and managing the natural resources, whether living or non-living, of the waters superjacent to the seabed and of the seabed and its subsoil and about other activities for the economic exploitation and exploration of the zone, such as the production of energy from the water, currents and winds; (b) jurisdiction as provided for in the relevant provisions of this Convention concerning (i) the establishment and use of artificial islands, installations and structures; (ii) marine scientific research; (iii) the protection and

⁶⁸ UNCLOS Art. 5.

⁶⁹ UNCLOS Art. 7.

⁷⁰ UNCLOS Art. 47.

⁷¹ UNCLOS Art. 57.

⁷² UNCLOS Art. 55.

preservation of the marine environment; (c) other rights and duties provided for in this Convention. (2) In exercising its rights and performing its duties under this Convention in the exclusive economic zone, the coastal State shall have due regard to the rights and duties of other States and shall act in a manner compatible with the provisions of this Convention. (3) The rights set out in this article concerning the seabed and subsoil shall be exercised under Part VI.”

The establishment of an EEZ for each coastal state is expected to address the tragedy of marine ownership resulting from unregulated exploitation of marine living resources. The fact that most global fisheries are located within 200 nm of coastlines, it is anticipated that the establishment of a country's EEZ will enhance resource management by allocating resource rights to countries most capable of monitoring them.⁷³

As defined by UNCLOS, Indonesia and Malaysia possess sovereignty zones and sovereign rights delineated by the limits of these zones. The sovereignty zone is a region where Indonesia possesses complete authority. Sovereign rights encompass the authority to govern and exploit resources for exploration and protection, including both biological and non-biological natural resources, and extend to the surface, seabed, and sub-seabed.⁷⁴ The Sovereignty Zone refers to land, archipelagic waters, and territorial seas. The sovereign rights zone includes jurisdictional areas, including the EEZ and the CS.⁷⁵

Delimitation of maritime boundaries, especially the EEZ, is a complex process involving different legal frameworks and geographical considerations. In the North Natuna Sea, the dispute between Indonesia and Malaysia illustrates the challenges arising from different basic approaches: Indonesia as an archipelagic state and Malaysia as a coastal state. This difference has a significant impact on the interpretation and application of maritime boundaries under the UNCLOS. The difference in the status of the two countries makes

⁷³ Donald R Rothwell and Tim Stephens, *The International Law of the Sea* (2nd edn, Bloomsbury Publishing 2016) p. 4.

⁷⁴ Chairijah, *Aspek Hukum Pemanfaatan Zona Ekonomi Eksklusif Dalam Rangka Peningkatan Pendapatan Nelayan Indonesia* (National Legal Research and Development Center, National Legal Development Agency 2005) <<https://bphn.go.id/data/documents/17Penelitian%20ZEE.pdf>> accessed 5 January 2025.

⁷⁵ *Ibid.*

the two countries have different bases in determining the baseline. The baseline is important because it is fundamental to delineating the boundaries of maritime claims, providing a ‘starting line’ for claiming maritime zones, and providing a starting point for the creation of national maritime claim boundaries.⁷⁶

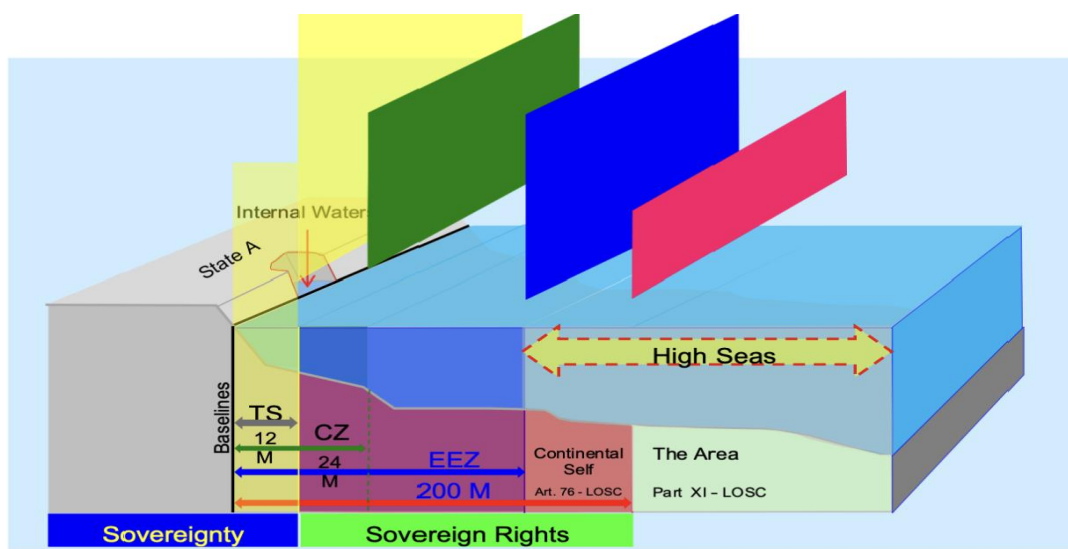


Figure 11: Baselines and Maritime Zones.⁷⁷



Figure 12: The Map Illustrates the Baseline Differences between Coastal States (State A) and Archipelagic States (State B).⁷⁸

⁷⁶ Clive Schofield, ‘Maritime Boundary Delimitation’ (the 2024 Yeosu Academy of the Law of the Sea, Yeosu South Korea, 28 October 2024).

⁷⁷ *Ibid.*

⁷⁸ International Hydrographic Organization, *Technical Aspects of the United Nations Convention on the Law of the Sea (TALOS) Manual* (5th edn, International Hydrographic Bureau 2014).

An archipelagic state refers to the country of Indonesia, which has a large archipelago.⁷⁹ Indonesia has 17,508 islands with a coastline of 108,000 kilometres.⁸⁰ Indonesia has a total sea area of around 3.544 million km² or around 72% of Indonesia's territory.⁸¹ The data establishes Indonesia as the largest archipelagic country worldwide. The Indonesian Sea area covers two-thirds of the entire land area. Indonesia has a total coastline of 108,000 km, making it the nation with the second longest coastline, after Canada. A notable characteristic of contemporary Indonesia is its status as an archipelagic state, where the government asserts authority over the waters between its islands and the islands themselves.⁸²

Indonesia received international recognition as an archipelagic state through UNCLOS. An archipelagic state is a state whose entire territory consists of one or more archipelagos and may include other islands.⁸³ This concept holds significant value for Indonesia.⁸⁴ As an archipelagic state, Indonesia has the right to determine the boundaries of its maritime territory by drawing baselines connecting the outermost points on the outermost islands or reefs or the ends of a state's territory.⁸⁵ The width of the territorial sea is 12 miles measured from the baseline, an additional zone of 24 miles, an EEZ of 200 miles, and a CS up to a maximum of 350 nm. Indonesia has full sovereignty over inland waters, archipelagic waters, and territorial seas.⁸⁶ Furthermore, it also has sovereign rights over the EEZ⁸⁷ and CS.⁸⁸ Sovereignty is full authority over a country's territory and in that territory the national laws of a country apply, while sovereign rights are the right to

⁷⁹ Rosmini Yanti, Safira Aviolita, and Marsetio 'Judicial Review of Indonesia's Position as Archipelagic State to Implement the Traffic Separation Scheme to Establish Maritime Safety and Security' (2020) *International Journal of Law and Political Sciences*, Vol 14 (12) 1176.

⁸⁰ Geospatial Information Agency of the Republic of Indonesia <https://big.go.id/uploads/ebook/EBook_Geospasial/26/FAIsi_JelajahPantaiIndonesia.pdf> accessed 8 December 2024.

⁸¹ *Ibid.*

⁸² Damos Dumoli Agusman; Citra Yuda Nur Fatihah, 'Celebrating the 25th Anniversary of UNCLOS Legal Perspective: The Natuna Case' *Indonesian Journal of International Law*. (2020) Vol 17 (4), 542.

⁸³ UNCLOS Art. 46.

⁸⁴ Hasjim Djalal, *Indonesia and the Law of the Sea*, (Centre for Strategic and International Studies, Jakarta. 1995) p. 293.

⁸⁵ UNCLOS Art. 47.

⁸⁶ UNCLOS Art. 49.

⁸⁷ UNCLOS Art. 56.

⁸⁸ UNCLOS Art. 77.

manage and utilize for the purposes of exploration and exploitation, conservation and management of natural resources, both biological and non-biological.

The implementation of UNCLOS has publicly acknowledged Indonesia's status as an archipelagic state by the international community, along with the associated rights and obligations of such territory. Indonesia's claim in the North Natuna Sea is founded on its EEZ derived from its archipelagic baselines, encompassing significant maritime areas adjacent to the Natuna Islands. These baselines allow Indonesia the entitlement to establish an EEZ extending up to 200 nm from these lines. This statement aligns with Indonesia's position that the principle of an archipelagic state ensures territorial integrity and sovereignty over its waters. In the North Natuna Sea, this approach allows Indonesia to include the Natuna Islands and surrounding waters as part of its EEZ claim. This methodology reflects Indonesia's strategic and economic interests in securing resources and upholding sovereignty in the region.

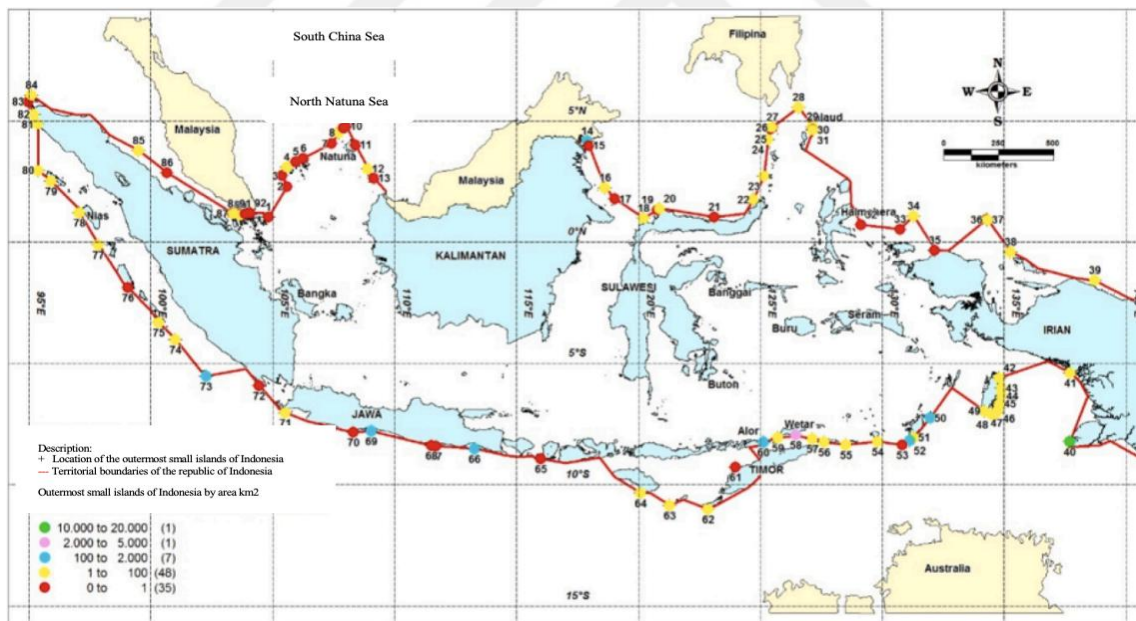


Figure 13: Map of Indonesia Baseline (Modified).⁸⁹

⁸⁹ Ria Tri Vinata, Masitha Tismananda Kumala, and Cita Yustisia Serfiyani, 'Climate change and reconstruction of Indonesia's geographic basepoints: Reconfiguration of baselines and Indonesian Archipelagic Sea lanes' (2023) 148 Marine Policy 1, 3.

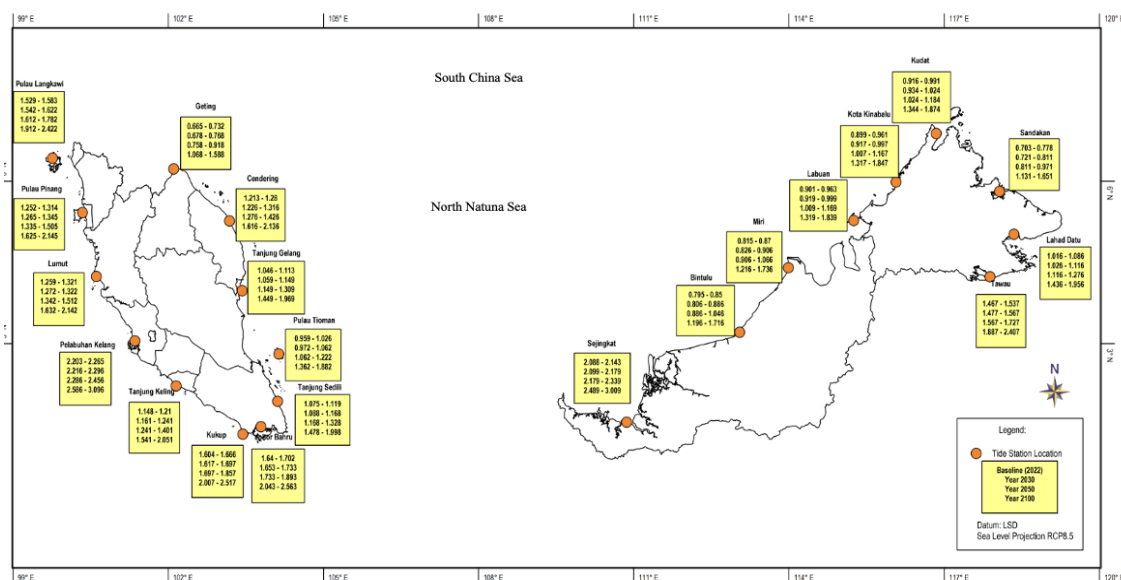


Figure 14: Map of Malaysia Baseline (Modified).⁹⁰

Malaysia as a coastal state uses normal baselines following the low water line along its coast, as stated in Article 5 of UNCLOS.⁹¹ The delimitation of the EEZ extending 200 nm from this baseline positions Malaysia's claim in proximity to Indonesia's EEZ in the North Natuna Sea. This method limits the scope of Malaysia's maritime claims when compared to the archipelagic baseline. However, Malaysia argues that adjustments should be made based on equitable principles and specific coastal configurations, asserting that some overlapping areas near the North Natuna Sea are within its EEZ. These claims frequently highlight the availability of natural resources and geographic closeness to the mainland or its main islands.

The overlapping EEZ claims of the two countries have resulted in a dispute raised by different baseline determination methods. Malaysia's position partially relies on its geographical proximity to specific features in the North Natuna Sea, whilst Indonesia asserts the validity of its archipelagic baselines in accordance with UNCLOS.⁹² This overlap has led to situations like illegal fishing activities and conflicts in maritime law

⁹⁰ National Hydraulic Research Institute of Malaysia (NAHRIM), 'Sea Level Rise in Malaysia' (*MyCoast*, 2024) <https://mycoast.nahrin.gov.my/portal-main/photo-gallery-details?id=sealevelrise_malaysia> accessed 9 December 2024.

⁹¹ UNCLOS Art. 5.

⁹² UNCLOS Art. 47.

enforcement, emphasising the necessity for specific delimitation.⁹³ The two countries may apply the concepts of equitable and proportionality when dealing with their EEZ delimitation. The concept of proportionality refers to the correlation between the lengths of the relevant coastlines of two or more States whose maritime zones require delimitation, and the extent of maritime space to be assigned to each party through this delimitation.⁹⁴ The concept of proportionality was previously applied by the ICJ in resolving previous cases, such as the Tunisia-Libyan Arab Jamahiriya case and the Jan Mayen case, in its decision it stated:

"Thus the relevant coastline of Libya stands in the proportion of approximately 31:69 to the relevant coastline of Tunisia... With regard to seabed areas, it notes that the areas of shelf below low-water mark within the area relevant for delimitation appertaining to each State following the method indicated by the Court stand to each other in approximately the proportion: Libya 40; Tunisia 60. This result, taking into account all the relevant circumstances, seems to the Court to meet the requirements of the test of proportionality as an aspect of equity".⁹⁵

"There are however situations - and the present case is one such - in which the relationship between the length of the relevant coasts and the maritime areas generated by them by application of the equidistance method is so disproportionate that it has been found necessary to take this circumstance into account in order to ensure an equitable solution. The frequent references in the case-law to the idea of proportionality- or disproportion- confirm the importance of the proposition that an equitable delimitation must, in such circumstances, take

⁹³ Ministry of Marine Affairs and Fisheries of the Republic of Indonesia, 'KKP Amankan 3 Kapal Asing di Laut Natuna dan Selat Malaka' (5 May 2024) *Kementerian Kelautan dan Perikanan* <<https://kkp.go.id/news/news-detail/kkp-amankan-3-kapal-asing-di-laut-natuna-dan-selat-malaka.html>> accessed 10 December 2024.

⁹⁴ Division for Ocean Affairs and the Law of the Sea Office of Legal Affairs, *Handbook on the Delimitation of Maritime Boundaries*, (United Nations, New York, 2000). p. 22.

⁹⁵ International Court of Justice, Tunisia/Libyan Arab Jamahiriya, I.C.J. Reports 1982, para. 131 <<https://www.icj-cij.org/node/103140>> accessed 10 January 2025.

into account the disparity between the respective coastallengths ofthe relevant area."⁹⁶

The different underlying approaches have strategic and economic implications. The North Natuna Sea is abundant in hydrocarbon and fishing resources, making the resolution of the EEZ boundary crucial for resource management. Both countries prioritize access to these resources, which has implications for regional security and economic stability. Indonesia has enhanced its naval presence in the area of the Natuna Islands,⁹⁷ while Malaysia has focused on diplomatic engagement to assert its claims.⁹⁸ Thus far, no agreement has been reached regarding the boundary of the Indonesian EEZ with Malaysia in the North Natuna Sea. Thus, the Indonesian government considers it to still be problematic and must be resolved immediately because the boundaries of the CS and the boundaries of the EEZ have different regime provisions.⁹⁹

The North Natuna Sea dispute emphasises the complicated issue of delimitation that involves various baseline methodologies under UNCLOS. Indonesia's dependence on the archipelagic state principle and Malaysia's coastal state viewpoint illustrates wider regional difficulties in the enforcement of international law of the sea. A collaborative method for settling this conflict would benefit the strategic and economic interests of both nations, while also enhancing regional peace and upholding the rule of law.

⁹⁶ International Court of Justice, Maritime Delimitation in the Area between Greenland and Jan Mayen I.C.J. Reports 1993, para. 65 < <https://www.icj-cij.org/node/103151> > accessed 10 January 2025.

⁹⁷ BBC News, 'Natuna: Sengketa Indonesia dengan China di Laut Cina Selatan' (*BBC Indonesia*, 30 December 2015) <https://www.bbc.com/indonesia/dunia/2015/12/151230_dunia_indonesia_natuna> accessed 12 December 2024.

⁹⁸ CNN Indonesia, 'Laut China Selatan Memanas, RI Tolak Nego China soal Natuna' (*CNN Indonesia*, 14 June 2020) <<https://www.cnnindonesia.com/internasional/20200614073325-106-513088/laut-china-selatan-memanas-ri-tolak-nego-china-soal-natuna>> accessed 12 December 2024.

⁹⁹ Ministry of Defense, *Zona Ekonomi Eksklusif dan Laut China Selatan* (Kemhan, 2017) <https://www.kemhan.go.id/itjen/wp-content/uploads/2017/05/zee_lcs.pdf> accessed 12 December 2024.

D) RELATIONSHIP WITH THE CONTINENTAL SHELF DELIMITATION (INDONESIA-MALAYSIA) IN NORTH NATUNA SEA

The provisions of UNCLOS distinguish between the EEZ and the CS, both in legal rights and geographical scope. The EEZ extends up to 200 nm,¹⁰⁰ from the coastal baseline, which gives a country sovereign rights over resources in the water column¹⁰¹. In contrast, the CS includes the seabed and its subsoil, which can extend beyond 200 nm if justified by geological evidence.¹⁰² In overlapping areas such as the North Natuna Sea, the delimitation of these zones often overlaps, requiring an equitable solution as outlined in Articles 74 and 83 of UNCLOS.

The delimitation of the EEZ and the CS are interrelated because their legal boundaries often overlap, especially in areas that are geographically adjacent to countries. The EEZ pertains to sovereign rights over life and non-living resources in the water column, whereas the CS relates to the resources of the seabed and subsoil. In the North Natuna Sea, Indonesia and Malaysia encounter difficulties in delineating these rights, as the seabed (CS) and the water column (EEZ) are concurrently exploited. It requires mutually beneficial delimitation to prevent disputes.

The resource-abundant North Natuna Sea intensifies the delimitation dispute. Both countries depend on the region for fishing and hydrocarbon exploration. Indonesia's emphasis on asserting its archipelagic sovereignty and Malaysia's dependence on coastal baselines generate geopolitical tension, particularly during unilateral exploration activities in the disputed waters. The overlapping EEZ and CS directly influence resource management, resulting in either a cooperative framework or diplomatic impasse. Indonesia and Malaysia have sought to conduct bilateral conversations and consultations to address the delimitation problem. Both nations acknowledge the principles of UNCLOS however interpret an equitable solution differently.

¹⁰⁰ UNCLOS Art. 57.

¹⁰¹ UNCLOS Art. 56.

¹⁰² UNCLOS Art. 76.

The previous President of Indonesia, Mr. Joko Widodo has appointed Ambassador Edy Pratomo as the President's Special Envoy for the Determination of Maritime Boundaries between Indonesia and Malaysia,¹⁰³ through Presidential Decree of the Republic of Indonesia No. 67/M of 2015 on the Appointment of the President's Special Envoy for the Determination of Maritime Boundaries between the Republic of Indonesia and Malaysia.¹⁰⁴ His responsibilities encompass:¹⁰⁵

1. Provide considerations for the resolution of maritime boundary determinations between the Republic of Indonesia and Malaysia, factoring in national interests;
2. Submit a report on the execution of responsibilities to the President via the Minister of Foreign Affairs, coordinated by the Cabinet Secretary;
3. Execute additional responsibilities pertaining to maritime boundaries between the Republic of Indonesia and Malaysia as delegated by the President.

Based on the agreement between the two national leaders—Indonesia-Malaysia. The two countries' special envoys have met three times insufficiently to handle issues of delimitation. Nevertheless, the tasks assigned to the two envoys differ; the Indonesian Special Envoy is assigned to resolve delimitation between Indonesia and Malaysia across all segments, including the EEZ in the North Natuna Sea, while the Malaysian Special Envoy is tasked just with addressing issues in the Sulawesi Sea segment.¹⁰⁶ It might be

¹⁰³ Cabinet Secretariat of the Republic of Indonesia, '*Presiden Jokowi Tunjuk Eddy Pratomo Jadi Utusan Khusus Penetapan Batas Maritim RI-Malaysia*' (17 November 2015) <<https://setkab.go.id/presiden-jokowi-tunjuk-eddy-pratomo-jadi-utusan-khusus-penetapan-batas-maritim-ri-malaysia/>> accessed 12 December 2024.

¹⁰⁴ Presidential Decree of the Republic of Indonesia No. 67/M of 2015 on the Appointment of the President's Special Envoy for the Determination of Maritime Boundaries between the Republic of Indonesia and Malaysia, cited in The Naval Hydro-Oceanography Center of the Republic of Indonesia, *Bunga Rampai Penetapan Batas Maritim RI – Negara Tetangga* (Pushidrosal 2019) <https://perpustakaan.kkp.go.id/knowledgerepository/index.php?p=show_detail&id=1073768> accessed 12 December 2024; Presidential Regulation of the Republic of Indonesia No 55 of 2015 on Amendments to Presidential Regulation No 17 of 2012 on Special Envoys of the President, Special Staff of the President, and Special Staff of the Vice President <<https://peraturan.bpk.go.id/Details/41794/perpres-no-55-tahun-2015>> accessed 12 December 2024.

¹⁰⁵ *Ibid.*

¹⁰⁶ The Naval Hydro-Oceanography Center of the Republic of Indonesia, *Bunga Rampai Penetapan Batas Maritim RI – Negara Tetangga* (Pushidrosal 2019) p. 31-32.

indicated that Malaysia now lacks the inclination to prioritise the establishment of the EEZ borders in the North Natuna Sea.

The legal framework applicable to the negotiations regarding the delimitation of Malaysia's EEZ with Indonesia is UNCLOS. However, prior negotiations concerning the CS utilised the Convention on the CS 1958 from the 1st Conference on the Law of the Sea,¹⁰⁷ as UNCLOS became effective only in 1994, following Guyana's accession as the 60th signatory. The outcome of the 1st Conference on the Law of the Sea in 1958, only four conventions had been established: the Convention on the Territorial Sea and the Contiguous Zone, the Convention on the High Seas, the Convention on Fishing and Conservation of the Living Resources of the High Seas, and the Convention on the Continental Shelf.¹⁰⁸ At that time, there were no regulations governing the boundaries of the EEZ. Currently, Malaysia interprets the delimitation of the CS as the limits of the EEZ, in accordance with the declaration made by Malaysia upon ratifying UNCLOS. Thus far, Malaysia has regarded the 1969 CS boundary agreement with Indonesia as synonymous with the EEZ boundary, establishing a singular delimitation. The 1969 CS boundary agreement between Indonesia and Malaysia in the North Natuna Sea, along with the implementation of the UNCLOS and the Technical Aspects on the Law of the Sea (TALOS) Special Publication of the IHO No. 51 of 2006, pertains to the establishment of the EEZ delimitation in the North Natuna Sea.¹⁰⁹ The following coordinates define the CS borders of the two nations in the North Natuna Sea:

Coordinate Point Number	Position (Latitude-Longitude)
11	01° 23' 09 " U – 104° 29' 05 " T
12	01° 38' 00 " U – 104° 53' 00 " T

¹⁰⁷ United Nations Convention on the Continental Shelf (adopted 29 April 1958, entered into force 10 June 1964) United Nations Treaty Series, Vol. 499, p. 311 <https://legal.un.org/ilc/texts/instruments/english/conventions/8_1_1958_continental_shelf.pdf> accessed 7 January 2025.

¹⁰⁸ Yoshifumi Tanaka, *The International Law of the Sea*, (2nd edn, Cambridge of University Press, United Kingdom. 2015) p. 22.

¹⁰⁹ Ministry of Defence of Republic of Indonesia, *Zona Ekonomi Eksklusif dan Laut China Selatan* (2017) <https://www.kemhan.go.id/itjen/wp-content/uploads/2017/05/zee_lcs.pdf> accessed 12 December 2024.

13	01° 54' 04 " U – 105° 05' 02 " T
14	02° 22' 05 " U – 105° 01' 02 " T
15	02° 55' 01 " U – 104° 51' 05 " T
16	03° 50' 00 " U – 104° 46' 05 " T
17	04° 03' 00 " U – 104° 51' 09 " T
18	05° 04' 07 " U – 105° 28' 08 " T
19	05° 40' 06 " U – 105° 47' 01 " T
20	06° 05' 08 " U – 105° 49' 02 " T

Table 7: Coordinate Points of the CS Boundary (Indonesia-Malaysia) in the North Natuna Sea.¹¹⁰

The map illustrates the details as follows:

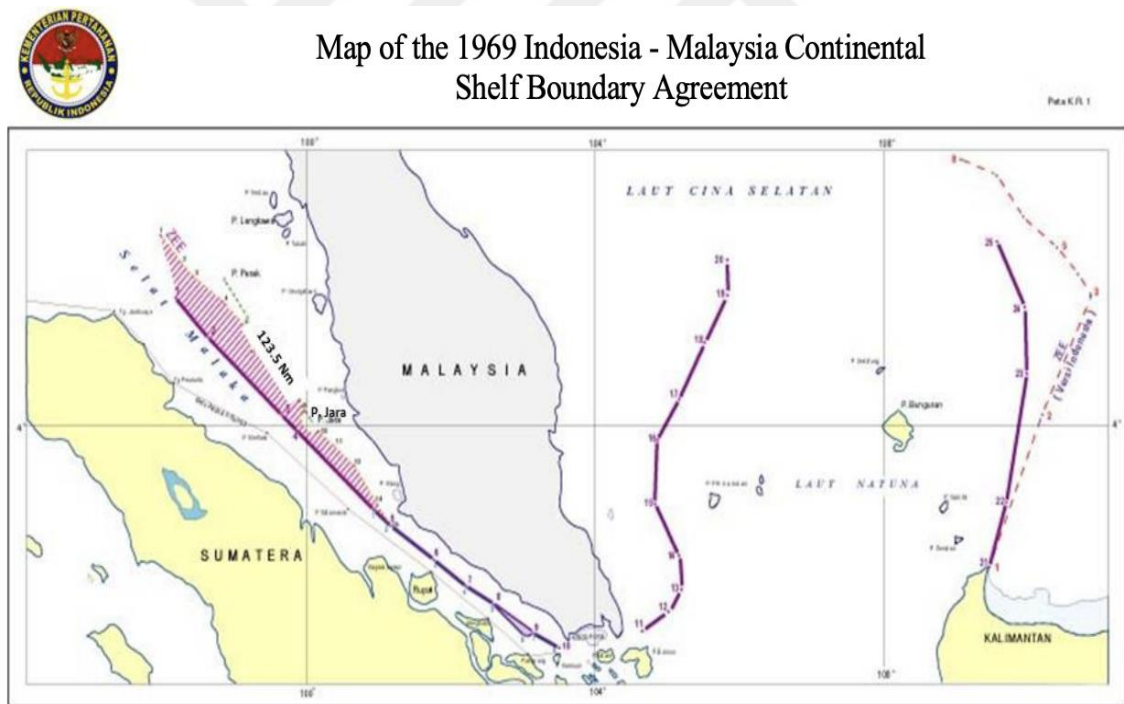


Figure 15: Map of Indonesia – Malaysia CS (Modified).¹¹¹

¹¹⁰ The Naval Hydro-Oceanography Center of the Republic of Indonesia (n 105).

¹¹¹ Ministry of Defence of the Republic of Indonesia, *Peraturan Perbatasan* <<https://www.kemhan.go.id/itjen/wp-content/uploads/migrasi/peraturan/perbatasan.pdf>> accessed 12 December 2024.

Indonesia and Malaysia are countries that have both ratified UNCLOS; nonetheless, there are practical differences in their implementation. Following the implementation of the UNCLOS, Malaysia was identified as a nation that perceives a threat due to its direct intersection with the archipelagic state of Indonesia, which utilises a baseline drawing system that utilises archipelagic baselines connecting the outermost points of its islands and the outermost reefs of the archipelago.¹¹² The Government of the Republic of Indonesia requires to establish the EEZ boundary lines separately, in accordance with the provisions of UNCLOS (using the median line), as the CS boundary lines cannot be concurrently determined with the EEZ boundaries due to the differing governing regimes of the two.

If countries worry about not being able to optimize control over their sovereign rights due to non-linear EEZ and CS delimitations, there are examples of non-linear EEZ and CS delimitations. These examples demonstrate that EEZ and CS delimitations do not always need to align, and optimal control can still be achieved, as demonstrated by the Indonesia-Australia border agreement for the 1972 CS delimitation¹¹³ and the 1997 EEZ delimitation.¹¹⁴ Additionally, the Indonesia-Vietnam border agreement, located in the North Natuna Sea, also implements this. The two countries recently completed the EEZ border at the end of 2022,¹¹⁵ having previously completed the CS boundary in the North Natuna Sea in 2003.¹¹⁶ The map below illustrates the outcomes of these border agreements:

¹¹² UNCLOS Art. 47 (1).

¹¹³ United Nations, ‘Agreement between the Government of Australia and the Government of the Republic of Indonesia Establishing Certain Seabed Boundaries in the Area of the Timor and Arafura Seas’ (18 May 1971) 974 UNTS 319 <<https://treaties.un.org/doc/publication/unts/volume%20974/volume-974-i-14123-english.pdf>> accessed 9 December 2024.

¹¹⁴ United Nations, ‘Agreement between the Government of the Republic of Indonesia and the Government of Australia on the Delimitation of the Exclusive Economic Zone Boundary and Certain Seabed Boundaries’ (10 March 1997) <<https://www.un.org/depts/los/LEGISLATIONANDTREATIES/PDFFILES/TREATIES/AUS-IDN1997EEZ.pdf>> accessed 9 December 2024.

¹¹⁵ Aristyo Rizka Darmawan, ‘What Does the Indonesia-Vietnam EEZ Agreement Mean for the Region?’ (n 4).

¹¹⁶ United Nations, ‘Agreement between the Government of the Republic of Indonesia and the Government of the Socialist Republic of Vietnam concerning the Delimitation of the Continental Shelf Boundary’ (26 June 2003) <<https://treaties.un.org/doc/publication/unts/no%20volume/part/i-44165.pdf>> accessed 9 December 2024.

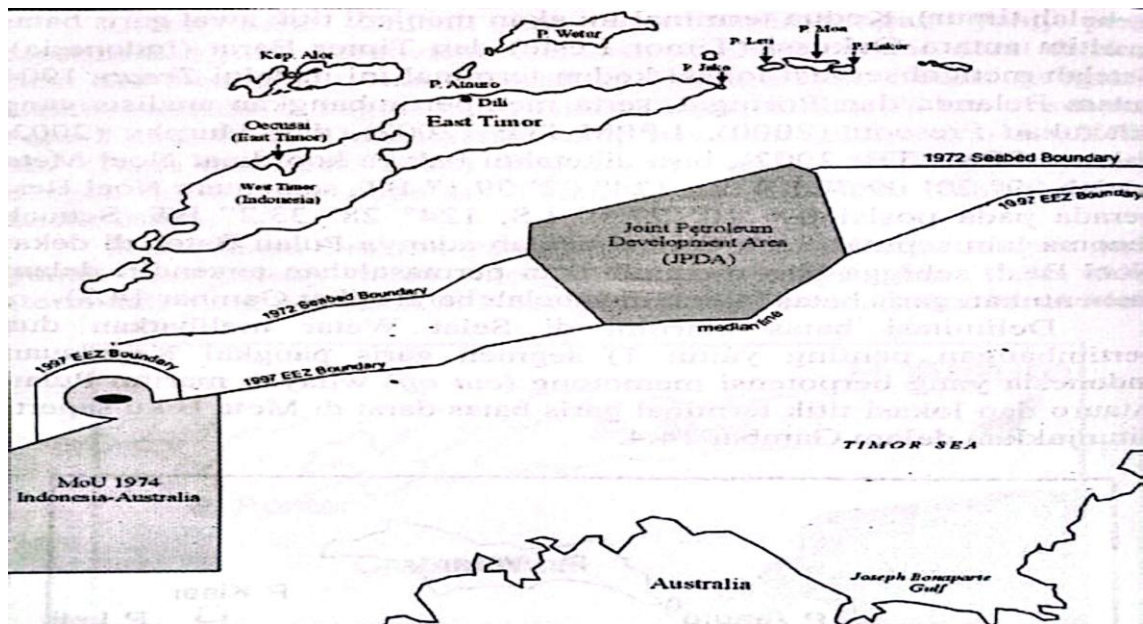


Figure 16: Map of the differences between CS and EEZ delimitation lines between Indonesia and Australia.¹¹⁷

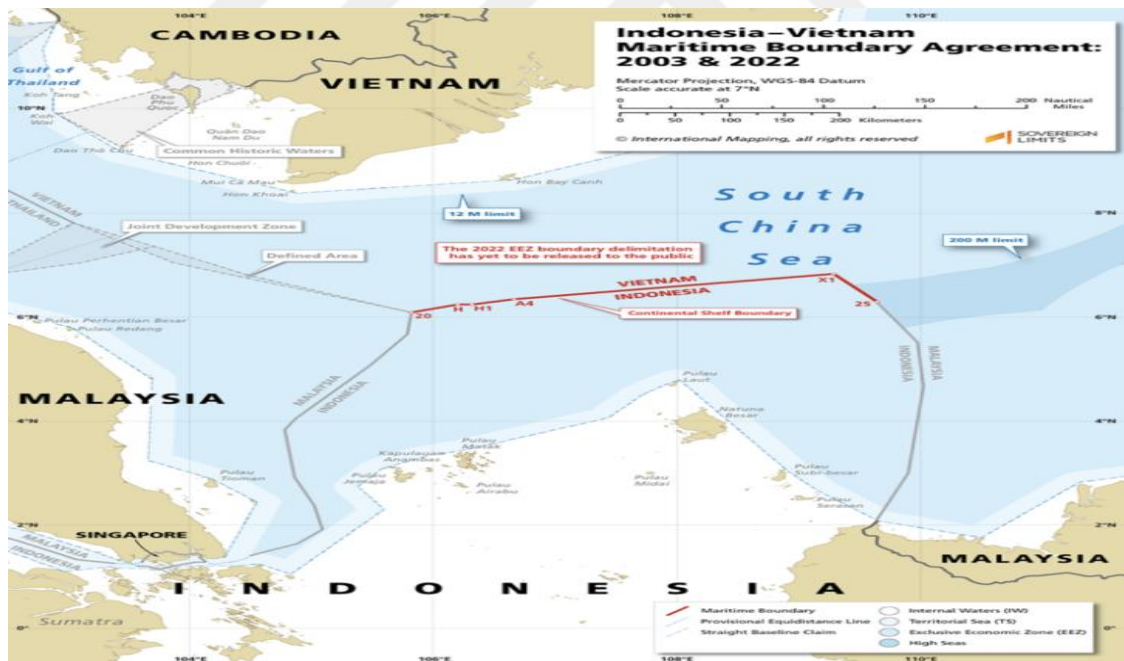


Figure 17: Indonesia-Vietnam Delimitation Map.¹¹⁸

¹¹⁷ I Made Andi Arsana, *Batas Maritim Antarneegara: Sebuah Tinjauan Teknis dan Yuridis*. (1st edn, Gadjah Mada University Press) p. 174.

¹¹⁸ Sovereign Limits, 'Indonesia-Vietnam Maritime Boundaries' <<https://sovereignlimits.com/boundaries/indonesia-vietnam-maritime>> accessed 9 December 2024.

Historically, the two countries (Indonesia and Vietnam) possessed concurrent and enduring claims to their EEZs in the waters surrounding the North Natuna Sea. Following the establishment of the Indonesia-Vietnam CS boundary in 2003, Vietnam sought to apply this boundary for its EEZ delimitation, whereas Indonesia advocated for an alternative boundary, suggesting a median line between Natuna Island (approximately 178 nm from Borneo Island, Indonesia) and Con Dao Island in Vietnam (less than 48 nm from Vietnam's coastline).¹¹⁹ Vietnam contended that the application of the island-to-island median line was inequitable. Both sides eventually agreed to use separate measurements for their CS and EEZ boundaries.¹²⁰ However, given the secretive nature of bilateral negotiations, to date neither country has ratified the agreement and has yet to publish a map of the agreed EEZ boundaries.

The example of the EEZ delimitation case above illustrates that establishing a boundary line not aligned with the CS is permissible under international law, specifically UNCLOS, provided both nations consent.

III. LEGAL FRAMEWORK GOVERNING EEZ DELIMITATION

A) UNCLOS AS THE PRIMARY LEGAL INSTRUMENT FOR EEZ DELIMITATION

UNCLOS is a significant international convention that governs oceans and provides a comprehensive framework for the use and preservation of the world's oceans. UNCLOS offers legal explanation on matters including territorial waters, EEZ, CS, and the freedom of the high seas. One of UNCLOS's primary accomplishments is the delineation of maritime zones, particularly in instances of maritime border disputes, such as overlapping areas within the EEZ.

UNCLOS offers a definitive structure and standards for the establishment and delimitation of EEZs, therefore minimising ambiguity. The Convention's emphasis on

¹¹⁹ ISEAS, 'Indonesia-Vietnam Maritime Boundaries' (SeaLion Plus) <<https://sealionplus.iseas.edu.sg/nodes/view/34263>> accessed 9 December 2024.

¹²⁰ *Ibid.*

equitable solutions guarantees justice in addressing overlapping claims. UNCLOS is a convention that requires states to settle maritime disputes by collaboration and consensus, encompassing all matters pertaining to law of the sea, and acknowledging the Convention's historical significance as a vital contribution to global peace, justice, and advancement.¹²¹

Despite its global acceptance, some countries have yet to ratify UNCLOS, and disagreements on its interpretation continue to exist. Nonetheless, UNCLOS continues to be a vital instrument for promoting collaboration and guaranteeing the fair resolution of conflicts. Conflicts frequently emerge around overlapping EEZ claims or resource governance. UNCLOS establishes a framework for resolving such disputes by negotiation, arbitration, or adjudication. UNCLOS promotes international collaboration in the management of transboundary resources and the resolution of disputes, guaranteeing sustainable and equitable use of the oceans for current and future.

In accordance with UNCLOS, TALOS 2006 and jurisprudence on decisions of the International Court of Justice on maritime boundary disputes which state that the relevant maritime area should be divided based on the proportion of the relative length of the coastlines of the two disputing countries.¹²² The establishment of maritime boundaries must consider the responsibility of coastal states to adhere to relevant agreements, as well as the rights of traditional fishers and the presence of existing undersea cables,¹²³ pay attention the shipping regulations of foreign nations, including the principle of innocent passage,¹²⁴ archipelagic sea lanes passage¹²⁵.

The delimitation of the EEZ between Indonesia and Malaysia in the North Natuna Sea involves legal complexities including UNCLOS regulations, sovereign rights of states,

¹²¹ Suryadi, Suryadi, Irman Irman, Atika Thahira, et al, 'The Resolution of Unilateral Claims and Maritime Features by Other Countries on Indonesia's Sovereign Rights in the North Natuna Sea through the PAC to Strengthen the Maritime Fulcrum in Indonesia' (2024) Vol. 134, p. 1-15, Les Ulis: EDP Sciences <<https://www.proquest.com/conference-papers-proceedings/resolution-unilateral-claims-maritime-features/docview/3188757469/se-2>> accessed 24 April 2025.

¹²² Rachmat Hartono, *Penentuan Batas Maritim Indonesia Dengan Palau Berdasarkan Unclos 1982* (Surabaya: Institut Teknologi Sepuluh Nopember 2015).

¹²³ UNCLOS Art. 51.

¹²⁴ UNCLOS Art. 52.

¹²⁵ UNCLOS Art. 53.

and economic concerns. Referring to the principle of an archipelagic state,¹²⁶ Indonesia claims its EEZ based on the archipelagic baselines that have been determined and recognized internationally. This position is strengthened by the Republic of Indonesia Law Number 32 of 2014 on Maritime Affairs.¹²⁷ Malaysia's claim is based on a continental shelf that overlaps with Indonesia's EEZ in the North Natuna Sea.¹²⁸

In areas with conflicting claims, such as the North Natuna Sea, UNCLOS offers a framework for peaceful resolution.¹²⁹ UNCLOS underscores the significance of attaining an equitable resolution grounded in international law via negotiation, mediation, or, when required, arbitration. The situation between Indonesia and Malaysia in the North Natuna Sea exemplifies the implementation of UNCLOS principles in establishing EEZ boundaries. Whenever an agreement fails to materialise, Indonesia and Malaysia should try to settle the dispute via peaceful means as outlined in Part XV of UNCLOS. UNCLOS promotes the negotiation, mediation, or resolution of conflicts through international judicial bodies, such the ICJ and ITLOS.

The North Natuna Sea has emerged as a significant issue for maritime boundary discussions between Indonesia and Malaysia owing to conflicting claims in respective EEZs. This case exemplifies the complex nature of maritime boundary delimitation under UNCLOS and the impact of international law in facilitating resolution. Despite both nations being signatories to UNCLOS, their different interpretations of maritime rights have resulted in disputes. For Indonesia and Malaysia, compliance with UNCLOS principles is essential for achieving a mutually advantageous EEZ delimitation agreement in the North Natuna Sea.

¹²⁶ UNCLOS Part IV.

¹²⁷ Republic Indonesia, *Law Number 32 of 2014 on Maritime Affairs*, <<https://peraturan.bpk.go.id/Details/38710>> accessed 11 January 2024.

¹²⁸ Ministry of Defense, *Konsep Penetapan Batas Zee Indonesia - Malaysia Di Laut China Selatan* <https://www.kemhan.go.id/itjen/wp-content/uploads/2017/05/zee_lcs.pdf> accessed 9 January 2025.

¹²⁹ UNCLOS Art 280.

B) DUTIES OF STATES (INDONESIA – MALAYSIA) PENDING FINAL DELIMITATION

The pending final delimitation must refer to the fundamental responsibilities of states under international law until the overlapping marine zones are definitively established. The legal basis is Article 74(3) and Article 83(3) of the UNCLOS, which mandates that disputing states must abstain from actions that could exacerbate or extend the dispute, prohibits unilateral actions that may undermine the negotiating position of the other party, and requires that all actions reflect a spirit of cooperation aimed at achieving a peaceful settlement.

The court's decision in the case of *Guyana v. Suriname* concerning disputed maritime area, settled by the Permanent Court of Arbitration (PCA), indicates that the phrase "Not to jeopardise or hamper" in Article 74(3) and Article 83(3) reflects a nuanced policy judgement of balancing. As stated in the Award of the Arbitral Tribunal:¹³⁰

"It should not be permissible for a party to a dispute to undertake any unilateral activity that might affect the other party's rights in a permanent manner. However, international courts and tribunals should also be careful not to stifle the parties' ability to pursue economic development in a disputed area during a boundary dispute, as the resolution of such disputes will typically be a time-consuming process."

Duties of states pending final delimitation is a general legal obligation (mandatory) with the aim of the parties to refrain from actions that worsen the dispute. The process of duties of states pending final delimitation does not require an explicit agreement between the parties. An instance of its execution involves refraining from unilateral exploration efforts in the contested region, wherein both nations honour each other's sovereign rights within the disputed EEZ.

¹³⁰ Permanent Court of Arbitration, '*The delimitation of Guyana's maritime boundary with Suriname and the alleged breaches of international law by Suriname in disputed maritime territory*' (*Guyana v. Suriname*) para 470. Award of the Arbitral Tribunal - September 17, 2007. <<https://pcacases.com/web/sendAttach/902>> accessed 9 January 2025.

In the context of the EEZ delimitation dispute between Indonesia and Malaysia in the North Natuna Sea, UNCLOS offers directives for the countries involved to proceed judiciously during the dispute resolution procedure. Indonesia and Malaysia must abstain from the exploration and exploitation of natural resources in the EEZ region that has not been mutually agreed to. This self-restraint aims to prevent the escalation of confrontation during negotiations.

The sovereign rights of the coastal state regarding the exploitation and exploration of the EEZ encompass the state's resource-oriented competencies, which enhance its rights over the living and mineral resources within the EEZ.¹³¹ In practice, fisheries exploitation and exploration activities in the overlapping EEZ waters between Indonesia and Malaysia in the North Natuna Sea have generated regional tension due to overlapping claims. Both countries own substantial interests in the region's plentiful fishing resources, potentially resulting in confrontation between Indonesian and Malaysian fisher. On September 7, 2022, two Indonesian fisher from Natuna Island were arrested by a Malaysian coast guard vessel for purportedly fishing approximately 68 nautical miles west of Tanjung Jerijeh, Malaysia.¹³² Similarly, Malaysia is susceptible to fishing activities in the overlapping EEZ zone due to its proximity to the Malaysian mainland, particularly Sarawak Island. The issue of illegal fishing in Indonesia–Malaysia relations have a unique complexity, as fishers from both nations frequently assert that they have not violated sovereign rights, whereas boundary authorities perceive these actions as violations on sovereignty.¹³³ This emphasizes a duty for mutual comprehension and the establishment of bilateral cooperation between Indonesia and Malaysia, focused not only on averting conflicts among law enforcement officers but also on specifically avoiding and dealing with cross-border illegal activities, including illegal fishing.

¹³¹ Barbara Kwiatkowska, *The 200 Mile EEZ in the New Law of the Sea*, (Martinus Nijhoff Publishers, Netherlands, 1983) p.105.

¹³² Yogi Eka Sahputra, 'Nasib Nelayan Natuna: Terusir Dari Laut Sendiri, Ditangkap di Laut Malaysia' (Mongabay Indonesia, 19 September 2022) <<https://www.mongabay.co.id/2022/09/19/nasib-nelayan-natuna-terusir-dari-laut-sendiri-ditangkap-di-laut-malaysia/>> accessed 26 April 2025.

¹³³ Ria Tri Vinata and Masitha Tismananda Kumala, 'Joint Security Efforts to Combat IUU Fishing in the Waters of Indonesia' *Lex Portus* (2023) Vol 9 (36), p. 43.

A fisher may challenge the entitlement of a foreign state to fish within fifty miles of its coastline; adjacent or opposing countries may dispute the demarcation of their maritime boundaries; one state may assert the authority to perform naval operations within another state's EEZ, which the latter contests.¹³⁴

IV. METHODS OF DISPUTE SETTLEMENT FOR EEZ DELIMITATION

UNCLOS, also known as the "Constitution for the Ocean," offers a detailed and systematic legal framework¹³⁵ for addressing issues concerning maritime boundary delimitation, especially those involving overlapping EEZ. This framework offers recommendations for the peaceful settlement of the dispute between Indonesia and Malaysia in the North Natuna Sea, in aligning with international sea law. One of its most notable contributions is the dispute settlement mechanism delineated in Part XV of the Convention. If the disputing countries are signatories to the UNCLOS, like Indonesia and Malaysia, they shall utilise the dispute resolution processes outlined in Part XV.¹³⁶ This framework is essential for encouraging peaceful conflict settlement and maintaining the rule of law at sea. An examination of its structure, methods, and efficacy underscores its significant role in fostering maritime collaboration.

The dispute settlement framework under UNCLOS is a complex system intended to address disputes related to the interpretation or implementation of the Convention. It embodies a balance between the rights of sovereign nations and the necessity for global oversight. Part XV delineates the framework into three sections. The first section emphasises that states ought to settle disputes using peaceful methods, advocating for negotiation, mediation, and conciliation prior to engaging in formal legal processes. The second section on Compulsory Procedures Requiring Binding Decisions stipulates that when disputes are not settled through informal methods, mandatory procedures are available, enabling parties to select between ITLOS, the ICJ, or an arbitral tribunal. The

¹³⁴ Robin Rolf Churchil and Alan Vaughan Lowe, *The Law of the Sea, Second Edition Revised and Enlarged*, (Manchester University Press, Oxford Road, UK. 1992). p. 330.

¹³⁵ James Harrison., *Making the Law of the Sea (A Study in the Development of International Law)*. (Cambridge University Press, United Kingdom, 2013) p. 278.

¹³⁶ UNCLOS Art. 74 (2) & 83 (2).

third section acknowledges state sovereignty, permitting nations to withdraw from specific dispute resolution processes for particular categories, including military operations and conflicts regarding historical property rights.¹³⁷

In the context of the delimitation of the EEZ between Indonesia and Malaysia, the following exemplifies the selection of process provided in Part XV of UNCLOS:

Indonesia as State A Choice	Malaysia as State B Choice	Final Forum (Unless otherwise agreed by the parties)
ITLOS	ITLOS	ITLOS (Art 287, para 4)
ITLOS	ICJ	Annex VII (Para 5)
ITLOS	Annex VII	Annex VII (Para 5)
ITLOS	None	Annex VII (Para 3)
ICJ	ICJ	ICJ (Para 4)
ICJ	ITLOS	Annex VII (Para 5)
ICJ	Annex VII	Annex VII (Para 5)
ICJ	None	Annex VII (Para 3)
Annex VII/None	Annex VII/None	Annex VII (Paras 3 or 4)

Table 8. Choice of Procedure Based on Part XV UNCLOS.

¹³⁷ UNCLOS Part XV.

Procedure	Cost	Autonomy
Arbitration	High (Parties are responsible for the payment of arbitrators, venue, registrar, and counsel)	High (Parties determine seating, regulations, arbitrators, and timetable)
Judicial Settlement	Low (Parties pay for counsel)	Low (Judicial body establishes seat, rules, judges, and calendar)

Table 9. The Cost and Autonomy Between Arbitration and Judicial Settlement.¹³⁸

Before applying the procedures outlined in Section 2, Part XV, UNCLOS, Indonesia and Malaysia should try to settle their differences by non-binding means designated in Section 1, Part XV, most notably by negotiation, good offices, mediation, inquiry, or conciliation.¹³⁹

While Indonesia and Malaysia have to assess the expenses, autonomy, and effectiveness of every forum, UNCLOS dispute resolution processes give flexibility. Regarding the EEZ delimitation problem in the North Natuna Sea, the table above shows that both countries could engage more aggressive bilateral negotiations in hopes of a peaceful outcome. Whenever negotiations become unsuccessful, consider arbitration (Annex VII) as a formal instrument that offers enhanced flexibility. Both nations may employ provisional measures to ensure stability until a conclusive resolution is attained.

¹³⁸ Coalter G. Lathrop, 'Dispute Settlement' (the 2024 Yeosu Academy of the Law of the Sea, Yeosu South Korea, 22 October 2024).

¹³⁹ Division for Ocean Affairs and the Law of the Sea Office of Legal Affairs, *supra* note 94, p. 85.

A) NON-BINDING DECISIONS

1- Settlement by Agreement

a) Diplomatic Negotiations and Bilateral Talks

Negotiations and bilateral talks are informal methods that typically serve as initial steps to peacefully resolve conflicts without resorting to binding legal procedures. Complementing UNCLOS's emphasis on amicable conflict resolution,¹⁴⁰ both Malaysia and Indonesia have taken part in several negotiating rounds.¹⁴¹ By means of diplomatic platforms, diplomatic negotiations and bilateral talks involve dialogue between the governments of Indonesia and Malaysia aimed at attaining a peaceful settlement without aggravating the situation. The negotiations centre on harmonising viewpoints on the formulating a draft delimitation agreement in line with UNCLOS criteria and the delimitation technique.

The discussions focused on setting reasonable limits based on fair values. Negotiating and several solutions that ensure the respect of state preferences and sovereignty are the main priorities. Bilateral negotiations are necessary, although the need for a more comprehensive and holistic consideration of shared and overlapping maritime spaces highlights the limitations of multi-track bilateral negotiations.¹⁴² Article 283, paragraph 2, pertains to two specific scenarios: the termination of a proceeding by coastal States Parties without resolving their delimitation disagreement, and the attainment of a settlement that necessitates further consultations on its implementation.¹⁴³ The parties shall engage in a discussion regarding the optimal approach and the most appropriate timeline for executing the agreed settlement. The parties are required to engage in a dialogue to collaboratively determine the subsequent actions they may pursue to resolve

¹⁴⁰ UNCLOS Art. 279.

¹⁴¹ Ministry of Defense (n 128).

¹⁴² Division for Ocean Affairs and the Law of the Sea Office of Legal Affairs, *supra* note 94, p. 86

¹⁴³ *Ibid.*

their maritime boundary delimitation disagreement. Standard diplomatic channels would be the most suitable and effective way the parties could convey opinions.¹⁴⁴

By increasing diplomatic interaction among countries, diplomacy provides a means to resolve transgressions. Through a mix of cooperative efforts, mutual concessions, knowledge exchange, and deliberate trust building, diplomacy seeks to develop and sustain enduring, non-violent relationships among nations while impacting foreign policy and safeguarding national interests and values.¹⁴⁵ Diplomatic connections help to increase acceptability and confidentiality in agreements, in order lowering the risk of non-compliance in negotiations and creating non-zero-sum opportunities for all the engaged parties.¹⁴⁶ Aiming to reach an agreement that reduces violations, especially those related to capture fisheries in the overlapping boundaries of the North Natuna Sea's EEZ, bilateral diplomacy between Indonesia and Malaysia must keep on. Given violations in catch fisheries, including transnational organised fisheries crime, bilateral cooperation is vital; hence, support and cooperation among countries—especially those with coasts—are absolutely vital. In particular in Indonesia and Malaysia, transgressions in catch fisheries have caused economic harm for the local population and endanger marine ecosystems worldwide.

Agreement will help to define the EEZ between neighbouring or opposite states.¹⁴⁷ Article 74 (1) of UNCLOS regulates the definition of the EEZ by requiring that the boundary between neighbouring coastal states be decided by an agreement grounded in international law, in order guaranteeing a fair resolution free from disadvantage to either side in line with Article 38 of the Statute of the ICJ.¹⁴⁸ The delimitation of the Indonesia-Malaysia EEZ in the North Natuna Sea mainly relies on diplomatic negotiations and bilateral discussions, which are peaceful methods as stipulated in Article 33 of the UN Charter.

¹⁴⁴ *Ibid.*

¹⁴⁵ Katharina MacKay and Richard Collins, 'Reorienting approaches to maritime boundary disputes: A case for hydro-diplomacy?' *Marine Policy* 106442 (2025) Vol. 17 (1). p. 1-9.

¹⁴⁶ *Ibid.*

¹⁴⁷ Louis B. Sohn (n 1).

¹⁴⁸ Yoshifumi Tanaka (n 108).

Bilateral negotiations are the preferred initial method for settling EEZ delimitation disputes. Emphasising the concept of good faith as described in Article 300 of UNCLOS helps one to achieve this. Negotiations have to take geographical conditions, demography, and national economic entitlements into account as well as equality and proportionality. This approach helps one to be flexible enough to reach a mutually beneficial conclusion without involving third parties. Diplomacy and bilateral negotiations provide the most adaptable and peaceful legal framework for resolving the EEZ delimitation dispute between Indonesia and Malaysia in the North Natuna Sea. The principal, most prevalent, and most efficacious method for resolving maritime boundaries, corresponding to other aspects of international relations, is and continues to be diplomatic negotiation.¹⁴⁹ Most boundaries have been and will be addressed in this way.¹⁵⁰ This method aligns with the principles of international law, particularly UNCLOS.

b) Provisional Arrangements Pending Final Agreement

Article 74(3) and Article 83(3) of UNCLOS stipulate that governments may establish interim agreements to govern overlapping maritime zones. The main goals are to enable the peaceful management of maritime resources and stop possible negative effects on both sides of the continuous conflict. These configurations cannot either affect nor precede the final outcome of the delimitation.

Provisional arrangements could be a temporary fix to stop economic stagnation, say by a cooperative exploitation agreement in the area in dispute while a final delimitation agreement is being developed. Aimed to momentarily control the management of overlapping zones, provisional arrangements are discretionary and require mutual consent. The approach requires both sides to negotiate and give express permission. One example of putting temporary plans into effect is creating a cooperative zone for resource control.

¹⁴⁹ Thomas Cottier, *Equitable Principles of Maritime Boundary Delimitation (The Quest for Distributive Justice in International Law)*, (Cambridge University Press, United Kingdom, 2015) p. 645.

¹⁵⁰ *Ibid.*

Might negotiations prove ineffective, the two nations could enact a Joint Development Agreement (JDA). A JDA is another way for the cooperative use of resources in disputed areas while waiting for a clear definition of boundaries. Instead of delimitation, both Indonesia and Malaysia have set Joint Zones, which could provide a model for resolving the EEZ delimitation dispute in the North Natuna Sea. Included are:¹⁵¹

1. Indonesia-Australia in the Timor Sea (Timor Gap) in 1989;
2. Malaysia-Thailand in the Gulf of Thailand, 1990;
3. Malaysia-Vietnam in the Gulf of Thailand, 1993.

JDA offers a practical option enabling both nations to achieve economic advantages without explicitly addressing sovereignty or sovereign rights concerns. The basis of this mechanism is the idea of reciprocal benefit for both countries.¹⁵² For resource development in disputed areas, Indonesia and Malaysia could create a JDA or a cooperation zone. For example, combined control of fisheries resources in areas claimed by both nations.

As long as Indonesia has not completed the delimitation of EEZ with Malaysia in the North Natuna Sea, the Indonesian Government has attempted to issue temporary policies or strategies that are implemented to safeguard the area, namely by issuing a Letter from the Coordinating Minister for Political, Legal and Security Affairs of the Republic of Indonesia Number: B-143/LN00.00/7/2019 dated July 23, 2019 on General Guidelines for Law Enforcement in Overlapping Areas.¹⁵³ It is stated in the guidelines that the authority of law enforcement officers in handling criminal violations by foreign vessels (especially foreign fishing vessels/fisheries) in overlapping waters includes detection, stopping vessels and inspecting vessels.¹⁵⁴ Conversely, Indonesia and Malaysia have

¹⁵¹ Clive Schofield, 'Overlapping Maritime Claims Areas and Maritime Joint Development Zones' (Australian National Centre for Ocean Resources and Security, Wollongong, 13 August 2024).

¹⁵² Lan Anh, *Joint Development between Malaysia and Vietnam* (Centre for International Law, National University of Singapore, June 2011) <<https://cil.nus.edu.sg/wp-content/uploads/2011/06/Session-5-Lan-Anh-Joint-development-between-Malaysia-Vietnam-pdf.pdf>> accessed 09 January 2025.

¹⁵³ Shannet Febriyanti, Kresno Buntoro, and Roslin Panjaitan, 'Penegakan Hukum di Undelimited Area yang Berbatasan dengan Vietnam guna Mempertahankan Hak Berdaulat Di ZEEI' *Journal Indonesia Maritime*. Vol 8 (2). p. 244-259.

¹⁵⁴ *Ibid.*

reached a Provisional Arrangement through a Memorandum of Understanding (MoU) of Common Guideline¹⁵⁵, which provides a framework for law enforcement in the disputed boundary zone.¹⁵⁶

Thus far, in the North Natuna Sea, Indonesia and Malaysia have established MoU of a Common Guidelines regarding their maritime boundaries, wherein both nations mutually respect each other's sovereignty; if Malaysian vessels are detected in Indonesian seas or vice versa, only expulsion is enacted. According to the MoU, Malaysia and Indonesia are prohibited from conducting activities in areas with undefined boundaries; thus, their only options is expulsion, except in cases of fishing using prohibited tools or materials as outlined in the 2012 Common Guideline MOU between Indonesia and Malaysia. This includes the use of explosives or chemicals, which can harm the marine ecosystem, thereby enabling law enforcement from both nations to make arrests.¹⁵⁷

Presently, Indonesia and Malaysia, which share a boundary with the EEZ in the North Natuna Sea, are prohibited from engaging in fishing activities in areas where boundary agreements have not been established; their actions are confined to expulsion. Malaysian vessels entering Indonesian waters or vice versa are just returned to their own country.

Notwithstanding a temporary policy, the resolution of the EEZ delimitation issue in the North Natuna Sea between Indonesia and Malaysia remains essential since it will help both countries in securing boundaries legitimacy in the sea, which can then be presented to the UN Secretary-General upon mutual agreement in line with UNCLOS terms. The resolution of the EEZ delimitation in the North Natuna Sea between Indonesia and Malaysia represents a bilateral diplomatic initiative aimed at enhancing maritime security and safety management within the jurisdictions of both nations.

¹⁵⁵ Memorandum of Understanding between the Government of the Republic of Indonesia and the Government of Malaysia in Respect of the Common Guidelines Concerning Treatment of Fishermen by Maritime Law Enforcement Agencies of Malaysia and the Republic of Indonesia (2012). <<https://faolex.fao.org/docs/pdf/bi-214460.pdf>> accessed 09 January 2025.

¹⁵⁶ Arie Afriansyah, 'Claiming Fish in the Disputed Exclusive Economic Zone: Indonesian Practice,' *Asia-Pacific Journal of Ocean Law and Policy* (2019) Vol 4 (2) p. 295

¹⁵⁷ Memorandum of Understanding between the Government of the Republic of Indonesia and the Government of Malaysia, Art. 3 (n 155).

2- Mediation and Good Offices; Role of Neutral Parties and Regional Organizations

The mediation and good offices conflict settlement method is founded on the principles of the UN Charter and UNCLOS. Article 33 of the UN Charter stipulates that international disputes should be settled by peaceful methods, including negotiation, mediation, and good offices. Article 74 (1) and (3) of UNCLOS stipulates that the delimitation of the EEZ between nations with opposing or adjacent coastlines must be conducted through a mutually agreed, equitable method. Moreover, the involved nations have to refrain from unilateral actions that could aggravate the situation until such an agreement is signed. UNCLOS Article 280 allows countries to choose a peaceful dispute settlement strategy including good offices and mediation.

Within the framework of the UN, good offices have proven particularly beneficial when political sensitivities require minimising or when tensions or hostilities need to be decreased to facilitate an amicable resolution to a dispute through a party-controlled political process. An important example of an ongoing good offices initiative currently undertaken by the Secretary-General of the UN, which directly pertains to a significant maritime delimitation, is the situation between Venezuela and Guyana.¹⁵⁸

Good offices and mediation are two international dispute resolution procedures with the common objective of assisting conflicting parties in achieving an agreement. Both aim to peacefully settle conflicts without resorting to violence or confrontation. Engage a neutral third party to facilitate the dispute resolution process. Neither good offices nor mediation provide a legally enforceable resolution; success is dependent upon the conflicting parties' willingness to accept the outcome.

Mediation and good offices require voluntary engagement, adhering to international law standards that uphold state sovereignty. This method seeks to attain a just outcome as required by UNCLOS. As seen in the case of Indonesia and Malaysia, a settlement grounded on the principle of justice will consider the ratio of coastlines between the two

¹⁵⁸ Division for Ocean Affairs and the Law of the Sea Office of Legal Affairs, *supra* note 94, p. 86.

countries as well as special geographical elements like small islands or overlapping zones. This approach helps to stop disputes from getting worse, mostly by upholding the UN Charter's non-aggression principle and supporting regional peace as stated in the Treaty of Amity and Cooperation (TAC).¹⁵⁹

Mediation is a proactive process whereby a third party helps to find a certain solution. Though not legally binding, if approved the suggested solution could form the basis of an agreement. More importantly, the third party's participation provides information to help to solve the problem. In the Indonesia-Malaysia case, the mediator can pinpoint the main interests of both sides, provide suggestions for solutions based on international maritime law and delimitation techniques, give top priority to mutual interests, and create a signed agreement for both sides.

The third party during good offices only facilitates communication between the disputing parties without providing advice or recommendations. The third party's engagement is limited to facilitating a meeting and discourse between the two sides. The third party typically operates at the behest of one or both parties. Good offices in Malaysia and Indonesia could mean involving a neutral third party to promote communication between the two nations. Another country, a person, or an organisation like ASEAN could all be a neutral party.

If Indonesia and Malaysia consent to mediation and good offices, both countries will choose a reputable third party at that point. The mediator sets the agenda, finds a venue, and keeps a dynamic flow of communication. During the process, the third party assures fairness and confidentiality. Indonesia and Malaysia might agree initially to make use of good offices or mediation. Following domestic laws, each country may then approve the agreement they consent to.

Both Indonesia and Malaysia members of the ASEAN organisation. In this regard, ASEAN—as a regional organization—can take front stage. In the framework of regional

¹⁵⁹ Treaty of Amity and Cooperation in Southeast Asia (adopted 24 February 1976, entered into force 21 June 1976) 1025 UNTS 15063 <<https://treaties.un.org/doc/Publication/UNTS/Volume%201025/volume-1025-I-15063-English.pdf>> accessed 02 January 2025.

policies, ASEAN can provide a forum for dealing with issues. In line with their ethical perspective, ASEAN can encourage the application of the values stated in the ASEAN Charter and TAC, which give respect for one another and peaceful conflict resolution the highest priority.¹⁶⁰ ASEAN, supported by the Maritime Working Unit, can offer technical analyses or engage delimitation specialists for the resolution of EEZ delimitation disputes. The establishment of the ASEAN Maritime Forum (AMF)¹⁶¹ can function as a dialogue platform to address extensive maritime issues, including the delimitation issue between ASEAN member states, exemplified by the situation between Indonesia and Malaysia in the North Natuna Sea EEZ. Moreover, these forums help ASEAN members as well as other parties to coordinate and cooperate in order to enhance discussion and resolution of maritime security issues in the region.¹⁶²

By means of a cooperative approach, the AMF can act as a forum for encouraging communication between Indonesia and Malaysia. In this case, it is imperative to improve diplomacy and advance regional communication. In line with UNCLOS, AMF can help technical and legal discussions on EEZ definition. By involving every ASEAN member state in dialogues aiming at a peaceful resolution, this forum can help to reduce tensions.

The EEZ delimitation conflict between Indonesia and Malaysia in the North Natuna Sea calls for regional focus due to its consequences for security, stability, and maritime cooperation; hence, ASEAN participation becomes necessary. Without supporting any one party, ASEAN can operate as an objective actor engaged in maintaining regional stability. ASEAN could ask member states to send marine legal experts to provide technical advice in this forum for dispute resolution. Following non-aggression and respect of state sovereignty, ASEAN can use the TAC as a basis to encourage dispute resolution by peaceful conversation and mediation. To provide necessary technical and

¹⁶⁰ *Ibid* Art. 2.

¹⁶¹ ASEAN, 'Maritime Cooperation: Peaceful, Secure and Stable Region' <<https://asean.org/our-communities/asean-political-security-community/peaceful-secure-and-stable-region/maritime-cooperation/?utm=>> accessed 11 January 2025.

¹⁶² ASEAN, 'Major Sectoral Bodies and Committees' <<https://asean.org/our-communities/asean-political-security-community/peaceful-secure-and-stable-region/maritime-cooperation/major-sectoral-bodies-committees/?utm=>> accessed 11 January 2025.

legal resources, ASEAN could cooperate with foreign agencies such as the UN or the International Maritime Organisation.

ASEAN should improve its engagement by creating a legislative protocol with mediation rules and a specialist framework for maritime conflicts. Using organisations like the ASEAN High Council or other conflict-resolution bodies could help to improve legal validity. By proving their dedication to the ideal of peaceful resolution, this process can strengthen the legal position of Indonesia and Malaysia in international venues.

However, ASEAN is a regional organisation with clearly limited ability to handle this issue. ASEAN procedures are non-binding; hence, the results of discussions or proposals lack legal power for binding member states. The process of making decisions inside ASEAN depends on consensus,¹⁶³ which may impede or complicate the quick settlement of disputes necessitating prompt action.¹⁶⁴ Comparatively to international bodies like ITLOS, ASEAN working units often show inadequate technical knowledge in maritime boundary delimitation.

Good offices procedures and mediation could be workable remedies for the problem with the Indonesia-Malaysia EEZ definition. In line with international law norms, the participation of neutral entities or regional organisations such as ASEAN is expected to produce a fair solution that satisfies all sides.

The mediation and good offices method is firmly grounded in international and regional legal frameworks, notably UNCLOS, the UN Charter, and the TAC. The success of the agreement is contingent upon the alignment of legal interpretations between the two countries, the mediator's commitment to justice, and the dedication of both countries to uphold and execute the agreement's outcomes. This strategy aligns with international law;

¹⁶³ ASEAN, *Charter of the Association of Southeast Asian Nations* (adopted 20 November 2007, entered into force 15 December 2008) Art. 20 <<https://asean.org/wp-content/uploads/images/archive/publications/ASEAN-Charter.pdf>> accessed 11 January 2025.

¹⁶⁴ The Jakarta Post 'ASEAN Should Duly Reconsider Its Decision-Making Process' (Jakarta, 8 August 2023) <<https://www.thejakartapost.com/paper/2023/08/08/asean-should-duly-reconsider-its-decision-making-process.html>> accessed 11 January 2025.

nonetheless, it necessitates the enhancement of the implementation mechanism to ensure successful execution of the achieved solutions.

B) BINDING DECISIONS

1- International Court of Justice (ICJ)

The ICJ is the principal judicial organ of the UN. The Court was founded in June 1945 pursuant to the Charter of the UNs and commenced its operations in April 1946.¹⁶⁵ The Court is situated in the Peace Palace in The Hague, Netherlands. The Court's function is to adjudicate legal disputes presented by States in compliance with international law and to issue advisory opinions on legal problems referred by authorised UNs entities and specialised authorities. The Court has 15 judges, chosen for nine-year terms by the UNs General Assembly and the Security Council.¹⁶⁶ The ICJ serves as an international judicial forum for resolving disputes over the delimitation of the EEZ, pursuant to the requirements of UNCLOS.¹⁶⁷

The delimitation dispute of the EEZ between Indonesia and Malaysia in the North Natuna Sea can be adjudicated by the ICJ, contingent upon mutual consent from both nations to submit the issue to the court. The ICJ can only adjudicate the matter with a mutual agreement between Indonesia and Malaysia, as both nations must accept to submit the dispute to the ICJ.¹⁶⁸ Usually presented as a special accord allowing consents to the ICJ's jurisdiction and defining the limits of the claims of both countries, this agreement Should one party make an optional declaration under Article 36 of the ICJ Statute acknowledging the ICJ's compulsory jurisdiction, the ICJ can decide the matter without additional specific consent from the other state. The optional declaration is applicable solely if the opposing state in the dispute has likewise issued a similar declaration, as the jurisdiction of the ICJ is mutual. Article 36 (2) of the ICJ Statute specifies:

¹⁶⁵ International Court of Justice, 'The Court' <<https://www.icj-cij.org/court>> accessed 30 December 2024.

¹⁶⁶ *Ibid.*

¹⁶⁷ UNCLOS Art. 287.

¹⁶⁸ Statute of the International Court of Justice (adopted 26 June 1945, entered into force 24 October 1945) Art. 36 and 40 <<https://www.icj-cij.org/statute>> accessed 30 December 2024.

“The states parties to the present Statute may at any time declare that they recognise as compulsory ipso facto and without special agreement, in relation to any other state accepting the same obligation, the jurisdiction of the Court in all legal disputes concerning...”

Upon the granting of consent, the ICJ will possess jurisdiction to decide the case. Nonetheless, if one of the states opposes the involvement of the ICJ, the issue cannot be adjudicated there without such consent.

During the ICJ proceedings,¹⁶⁹ one or both parties submit a request to the ICJ. Both nations present legal documents, facts, maps, and additional proof substantiating their respective assertions on the EEZ. The evidentiary framework employed by the ICJ emphasises the principles of international maritime law, particularly UNCLOS, including the principle of equitable solution as delineated in Article 74 and the application of the median line as a standard approach for delimiting the EEZ, excluding any relevant exceptional factors. This particular feature is evident in the different state systems of Indonesia and Malaysia—that Indonesia is an Archipelagic State in particular. Moreover, the ICJ can provide analysis on the outermost island—more especially, Natuna Island—that lies inside the Indonesian Archipelagic Baseline. During the judicial proceedings, the parties will present oral arguments before the ICJ judge.

The ICJ frequently used the median line approach in maritime delimitation disputes. Nonetheless, in certain instances, the court also evaluates additional relevant factors to attain a more equitable resolution and prevent inequality between the concerned parties.

The ICJ will decide an international law-based ruling during the decision-making stage. This is a legally final and binding decision. In delimitation cases, the ICJ's decisions often draw on past decisions including the 2009 case *Maritime Delimitation in the Black Sea (Romania v. Ukraine)*.¹⁷⁰ This issue pertained to the delineation of maritime boundaries,

¹⁶⁹ International Court of Justice, 'How the Court Works' <<https://www.icj-cij.org/en/how-the-court-works>> accessed 30 December 2024.

¹⁷⁰ International Court of Justice, *Maritime Delimitation in the Black Sea (Romania v. Ukraine)*, Judgment, 3 February 2009, ICJ Reports 2009 <<https://www.icj-cij.org/case/132>> accessed 30 December 2024.

including the EEZ, in the Black Sea. The contention on the existence of Serpentine Island impacted the delineation of maritime zones and EEZ claims of both nations. The ICJ opted for the median line approach, taking equity into account. Although Serpentine Island is considered as part of the Ukrainian coast, its impact on the border was greatly reduced to prevent an unfair outcome. This choice underlined the need of integrating the allocation of the EEZ in line with equality and proportionality.¹⁷¹

If Indonesia and Malaysia choose to submit this case to the ICJ, the ICJ will inherently possess both advantages and disadvantages. The ICJ will render a conclusive and binding decision that may mitigate the possibility of an extended dispute. The ICJ is capable of adjudicating disputes in a peaceful and legally grounded manner, thereby diminishing the risk of confrontation or military engagement. The international community will accept the ICJ's ruling and so give the decision more legal validity. Transparent legal procedures based on international law can help to lower tensions between Malaysia and Indonesia. Still, the operation is costly and time-consuming; the result might not entirely satisfy either side. Although the ICJ seeks to offer a fair solution, one party could not be happy with it. Should both countries refuse to approve the case before the ICJ, they could consider the ITLOS as a substitute, which specialises in maritime disputes and may accelerate the resolution of problems involving EEZ boundaries while emphasising marine law.

The ICJ is a law-based, justice-oriented conflict resolution process requiring mutual dedication from both sides to recognise its jurisdiction and follow the result of the decision. Under international law—especially UNCLOS—the ICJ's resolution of the EEZ delimiting problem between Indonesia and Malaysia in the North Natuna Sea is a legitimate choice. This strategy might result in a legally binding and fair outcome; yet, the conflicting claims of both countries about the disputed area cause problems.

¹⁷¹ *Ibid.*

2- International Tribunal for the Law of the Sea (ITLOS)

Based on Annex VI of UNCLOS, ITLOS was founded and is a specialised tribunal located in Hamburg, Germany,¹⁷² responsible for settling maritime disputes. It possesses jurisdiction over several issues, including maritime boundary delimitation and marine conservation of the environment.¹⁷³

The utilisation of ITLOS for resolving the EEZ delimitation dispute between Malaysia and Indonesia in the North Natuna Sea might be comprehended within the framework of international sea law as regulated by UNCLOS. UNCLOS establishes the legal framework for the delimitation of EEZs, namely in Article 74. When two states with opposing or neighbouring coastlines fail to agree on the delimitation of their EEZs, they must engage in good faith negotiations. If negotiations fail, Article 74(2) mandates settlement via dispute resolution processes, including ITLOS. ITLOS is a dispute resolution system established under UNCLOS. ITLOS may be requested to provide a decision on delimitation if both states consent to submit the matter to the tribunal.¹⁷⁴

In the EEZ delimitation issue between Indonesia and Malaysia in the North Natuna Sea, the parties may seek dispute resolution under ITLOS. In adjudicating this dispute, ITLOS will evaluate the subsequent principles:¹⁷⁵

- a. Equity: Preventing inequity in the allocation of maritime zones;
- b. Special Circumstances: Geographical elements like small islands or coastal formations;
- c. Median line or equidistance line method: Serves as an initial basis for delimitation.

¹⁷² Myron H. Nordquist, Satya N. Nandan, and James Kraska., *UNCLOS 1982 Commentary: Supplementary Documents*, (Martinus Nijhoff Publishers, Leiden, Boston, 2012) p. 283.

¹⁷³ International Tribunal for the Law of the Sea, 'The Tribunal' <<https://www.itlos.org/en/main/the-tribunal/the-tribunal/>> accessed 29 December 2024.

¹⁷⁴ UNCLOS Art. 287.

¹⁷⁵ Precedent cases adjudicated by the ICJ; Bangladesh vs. Myanmar (2012) <https://www.itlos.org/fileadmin/itlos/documents/cases/case_no_16/published/C16-J-14_mar_12.pdf> and Ghana vs. Côte d'Ivoire (2017) <https://www.itlos.org/fileadmin/itlos/documents/cases/case_no.23_merits/23_published_texts/C23_Judgment_20170923.pdf>_accessed 29 December 2024.

Resolution by ITLOS depends on mutual agreement between Indonesia and Malaysia to send the matter before the tribunal.¹⁷⁶ The case might be presented under a compromise (special agreement) or a joint statement. The case is sent to ITLOS together with documentation covering the contested problems, each party's legal position, and a request for delimitation.¹⁷⁷ In the case of the North Natuna Sea, if bilateral discussions fail, recourse to ITLOS is a valid option. Nonetheless, this requires mutual agreement, as ITLOS cannot assert jurisdiction without the consent of both countries.

According to Article 288 of UNCLOS, ITLOS possesses jurisdiction to adjudicate the EEZ delimitation issue between Indonesia and Malaysia in the North Natuna Sea, as the matter pertains to the interpretation or application of UNCLOS. In EEZ delimitation, ITLOS may be requested to establish the boundary line by evaluating international sea law and the geographical realities of both countries. The configuration of the coastline, the distance between the coasts of the two countries, and the presence of outer island, such as the Natuna Islands situated within the Indonesian baseline, may affect the delimitation. Indonesia and Malaysia must provide substantial technical and geographical evidence to substantiate their claims. The ITLOS ruling will take all of these facts into account to attain an equitable outcome. The phases of settlement in ITLOS comprise:

No	Phases	In Details
1	Registration and Constitutional Tribunal	A tribunal of 21 judges from ITLOS will be assembled, or both nations may petition for the establishment of a specialised tribunal.
2	Submission of Written Statements	Both countries present written statements articulating their positions, along with maps, geographic data, and legal justifications.

¹⁷⁶ UNCLOS Annex VI.

¹⁷⁷ *Ibid.*

3	Preliminary Hearing	ITLOS will conduct a preliminary hearing to determine the approval of the pleadings.
4	Trial	The main hearing involves the presentation of arguments, expert testimonies, and evidence.
5	Ruling	Following an evaluation of the facts and applicable law, ITLOS will deliver a final and binding verdict.

Table 10. The Phases of Settlement in ITLOS.¹⁷⁸

If Indonesia and Malaysia consent to resolve the dispute through the ITLOS judgement, then pursuant to Article 296 of UNCLOS, the ITLOS judgement is conclusive and obligatory for both nations. Both nations must collaborate to execute the decision, including delineating the established maritime boundaries. The decision must then be integrated into the local regulations of each nation to prevent future legal disputes.

In comparison to the ICJ, ITLOS has a very limited number of cases in its docket.¹⁷⁹ This enables ITLOS to address delimitation matters expeditiously, in contrast to other forums. The Bangladesh/Myanmar proceedings before ITLOS lasted around 2.5 years from initiation to final ruling, whilst the concurrent Appendix VII arbitration proceedings in Bangladesh/India extended over five years.¹⁸⁰ The ICJ took nearly six years to adjudicate the Peru/Chile issue, with many of its delimitation cases requiring even more time.¹⁸¹

Examining case precedents reveals that various analogous instances can serve as references in resolving this dispute, such as *Bangladesh v. Myanmar* (2012), where ITLOS established maritime limits based on the equidistance principle while taking into

¹⁷⁸ International Tribunal for the Law of the Sea (n 173).

¹⁷⁹ Stephen Fietta and Robin Cleverly, *A Practitioner's Guide to Maritime Boundary Delimitation*, (Oxford University Press, United Kingdom, 2016) p. 128.

¹⁸⁰ *Ibid.*

¹⁸¹ *Ibid.*

account the coastline structure.¹⁸² In the case of *Ghana v. Côte d'Ivoire* (2017), the Tribunal examined the presence of oil and gas resources in the delimitation, while ITLOS assessed the implications for natural resource exploration activities in the dispute area.¹⁸³ In the Indonesia-Malaysia example, ITLOS would likely adhere to a comparable approach, employing the equidistance concept as a foundation and modifying it according to pertinent facts.

The execution of the ITLOS mechanism exemplifies a legal framework for the peaceful resolution of conflicts, aligned with the values of UNCLOS and a dedication to regional stability. If Indonesia and Malaysia concur to settle the EEZ delimitation dispute in the North Natuna Sea via ITLOS, it will exemplify a dedication to international law. However, to date, there has been no indication that the two countries will bring the delimitation issue in the North Natuna Sea to an international tribunal. Both countries generally prioritise diplomacy. Settlement via ITLOS provides a realisable, equitable, and lawful method for settling the EEZ delimitation dispute between Indonesia and Malaysia in the North Natuna Sea; nonetheless, it necessitates an effective commitment from both parties to keep to the process and its final results.

3- Arbitration under UNCLOS Annex VII

Arbitral tribunals, established under Annex VII, represent a versatile alternative frequently selected by countries desiring to maintain enhanced control over procedural elements. Annex VII arbitration is a compulsory tool under UNCLOS when alternative methods are ineffective. According to Article 287 of UNCLOS, this mechanism will be invoked when:¹⁸⁴

¹⁸² Dispute Concerning Delimitation of the Maritime Boundary between Bangladesh and Myanmar in the Bay of Bengal (*Bangladesh v Myanmar*) (Judgment, 14 March 2012) ITLOS Case No 16 <https://www.itlos.org/fileadmin/itlos/documents/cases/case_no_16/published/C16-J-14_mar_12.pdf> accessed 29 December 2024.

¹⁸³ Dispute Concerning Delimitation of the Maritime Boundary between Ghana and Côte d'Ivoire in the Atlantic Ocean (*Ghana v Côte d'Ivoire*) (Judgment, 23 September 2017) ITLOS Case No 23 <https://www.itlos.org/fileadmin/itlos/documents/cases/case_no.23_merits/23_published_texts/C23_Judgment_20170923.pdf> accessed 29 December 2024.

¹⁸⁴ UNCLOS Art.287.

1. There is an absence of a bilateral agreement regarding the method of dispute resolution.
2. A party unilaterally seeks arbitration due to the ineffectiveness of negotiations in reaching a resolution.

Annex VII of UNCLOS mandates arbitration as the requisite procedure for resolving disputes where the parties cannot reach an alternative agreement. Arbitration is defined by the subsequent characteristics:

1. The Tribunal consists of a panel of five members, with each party designating one arbitrator and the remaining three selected jointly or by the President of ITLOS in the absence of an agreement.
2. Binding The tribunal's ruling is conclusive and obligatory for the parties involved.
3. Extensive Jurisdiction: Encompasses issues over the interpretation or implementation of UNCLOS regulations, including the delimitation of the EEZ.

The EEZ delimitation dispute in the North Natuna Sea between Indonesia and Malaysia presents a compelling case for considering arbitration as an option of dealing with related disputes. The disputed area is asserted by both countries due to divergent interpretations of maritime boundaries.

If bilateral negotiations and alternative mechanisms fail to settle the Indonesia-Malaysia EEZ delimitation dispute in the North Natuna Sea, one party may submit the case to arbitration without the other party's consent, enabling an expedited resolution of the delimitation dispute. Either party (Indonesia or Malaysia) may initiate arbitration by delivering written notification to the other party in compliance with Article 287 and Annex VII of UNCLOS. The notification must include specifics of the issue, the legal foundation for the submission, and a declaration that resolution through discussion or alternative methods has been unsuccessful.¹⁸⁵ Either party may decline to participate in

¹⁸⁵ UNCLOS Annex VII.

the arbitration procedure (non-appearance). Nonetheless, the arbitration procedure may continue in the absence of one party, as exemplified by the Philippines vs. China (South China Sea Arbitration).¹⁸⁶

Article 74 of UNCLOS serves as the primary foundation for EEZ delimitation, underscoring that the resolution must adhere to the principle of justice, with the principal aim of attaining an equitable outcome by considering geographical and other pertinent factors. The arbitration panel will apply several principles of international law, including:

1. The Principle of Equitable Solution

The tribunal will evaluate the interests of both parties, including the equitable allocation of maritime zones based on coastal length, physical structure, and other factors.¹⁸⁷ This principle seeks to attain an equitable outcome by taking into account geographical configuration, unique circumstances, and proportionality.

2. The Principle of Proportionality

This principle ensures that the distribution of marine zones corresponds to the length of each party's coastline. For instance, in the context of EEZ delimitation in the North Natuna Sea, Indonesia's more extensive coastline relative to Malaysia may influence the delimitation decisions. An instance of the application of the principle of proportionality in arbitration occurred during the resolution of a dispute between Bangladesh and India in 2014 concerning the Bay of Bengal. The arbitration case of Bangladesh vs. India, adjudicated by the PCA, is a significant matter concerning maritime delimitation. This dispute pertained to the allocation of the EEZ and CS.¹⁸⁸ The principle of proportionality was employed to modify the delimitation results, ensuring an equitable distribution of the maritime area, while considering geographical elements such the concave coastline of

¹⁸⁶ The South China Sea Arbitration (Philippines v China) (Award, 12 July 2016) PCA Case No 2013-19, para 275 <<https://pca-cpa.org/cn/cases/7/>> accessed 29 December 2024.

¹⁸⁷ UNCLOS Art. 74 (1) and 83 (1).

¹⁸⁸ Bay of Bengal Maritime Boundary Arbitration (Bangladesh v India) (Final Award, 7 July 2014) PCA Case No 2010-16 <<https://pca-cpa.org/en/cases/18/>> accessed 29 December 2024.

Bangladesh. This ruling exemplifies the use of the principle of equity in international arbitration for the resolution of maritime conflicts.

3. The Principle of Non-Encroachment

The arbitration award must not infringe upon the legitimate rights of countries not involved in the dispute, aiming to safeguard each country's sovereign rights over its legitimate maritime area, avert further conflict in the contested region, and ensure equitable access to maritime resources therein.

4. Special circumstances,

The presence of small islands or conflicting traditional rights claims, are significant elements in the approach.

If the arbitration has issued a ruling regarding the resolution of the EEZ delimitation dispute in the North Natuna Sea, Indonesia and Malaysia are obligated to adhere to the arbitration award. Article 296 of UNCLOS stipulates:

"Any decision rendered by a court or tribunal having jurisdiction under this section shall be final and shall be complied with by all the parties to the dispute"

The arbitration tribunal's ruling is final and binding, requiring cooperation from all parties engaged in the dispute. This ensures legal certainty for both countries and avoids conflict escalation. Indonesia and Malaysia are signatories to UNCLOS, thereby obligating them to utilise the dispute settlement mechanisms outlined in this convention. If the two countries fail to reach a consensus on an alternative forum, arbitration is mandated under Article 287(5) of UNCLOS.

The choice of either Indonesia or Malaysia to submit the EEZ delimitation dispute in the North Natuna Sea to arbitration may have significant legal and practical consequences in the future, including the following:

1. Legal Certainty: arbitration offers a definitive legal resolution, eliminating ambiguity in the delimitation of the EEZ in the North Natuna Sea, which may impact economic activity, including fisheries.
2. Effect on Bilateral Relations: The mutual recognition of the verdict by both parties can strengthen diplomatic relations, as it signifies a dedication to international sea law. However, the adverse consequence is that if one side finds dissatisfaction, there is a possibility for impact to emerge, especially during the implementation of the decision. As the PCA decision between China and the Philippines (2016) in the South China Sea which was rejected by China.¹⁸⁹ The tensions caused by China's rejection of the arbitration ruling show the significant difficulties in enforcing international law against dominant states. The South China Sea continues to be a geopolitical flashpoint necessitating international solutions and the application of the rule of law to avert further conflict escalation.
3. Precedent in International Sea Law: tribunal rulings may establish international legal precedents, particularly in delimitation disputes within the ASEAN region that exhibit similar geographical features.

The EEZ delimitation dispute between Indonesia and Malaysia in the North Natuna Sea illustrates the necessity of integrating legal and diplomatic mechanisms to address maritime conflicts. Annex VII arbitration provides a systematic procedure; however, its efficacy relies on the parties' commitment to act in good faith and execute the outcomes.

Annex VII arbitration under UNCLOS serves as a crucial method for adjudicating EEZ delimitation disputes, particularly when bilateral negotiations prove unsuccessful. The case study of Indonesia and Malaysia in the North Natuna Sea highlights the complex nature of maritime delimitation disputes and the prospective function of arbitration in attaining an equitable and durable resolution. By adhering to UNCLOS principles and

¹⁸⁹ The South China Sea Arbitration (Philippines v China) (n 186).

utilising international jurisprudence, Annex VII arbitration may encourage peaceful resolution and stability in the disputed maritime zone of the North Natuna Sea.

CONCLUSION

The EEZ of Indonesia and Malaysia will enable both nations to retain their sovereign rights on the use, management, and exploration of marine resources. Unresolved is the division of the EEZ boundary in the North Natuna Sea between Indonesia and Malaysia, which might lead to compromise of marine resource protection and conflict. Rich in resources, the North Natuna Sea is a strategic target as well as a focal point of dispute. This EEZ is in an area of great geopolitical and commercial value along a main worldwide trade route. The boundary issue of the EEZ results from the conflicting claims made by Indonesia and Malaysia. Although agreement on CS limits established since 1969, the water column limit inside the North Natuna Sea is yet unresolved. This uncertainty compromises national sovereignty of both states, shapes resource allocation, and postpones law enforcement activities, in order compromising regional stability.

Dealing with the delimitation conflict between Indonesia and Malaysia will help to maintain legal stability, increase regional security, and safeguard the economy depending on maritime resources. Particularly in the North Natuna Sea, the results stay limited even with ongoing boundary negotiations between the two nations. Under UNCLOS, several diplomatic channels, including bilateral negotiations, temporary agreements, mediation, international arbitration, the ICJ or ITLOS can help to settle problems. Conversely, both governments must raise their capacity for maritime surveillance, strengthen cooperation in fisheries law enforcement, and protect indigenous fishers depending on the resources of Natuna for their livelihood.

According to UNCLOS, Indonesia is an archipelagic state claiming its EEZ based on an archipelagic baseline. The demand for equidistance by Indonesia runs against Malaysia's inclination for coastal development, consequently complicating negotiations. Furthermore, the great economic possibilities, especially from oil, gas, and fisheries resources, demand that governments increase their defence of their rights. Indonesia and

Malaysia must rapidly define fair and legal EEZ limits if they are to retain sovereignty and prevent possible conflicts compromising peace in Southeast Asia.

Legal and financial considerations as well as questions of state sovereignty, regional security, and future welfare of people living in the maritime delimitation area define the resolution of the Indonesia-Malaysia EEZ boundary dispute. Law of the sea holds that the disagreement on the boundaries of the EEZ in the North Natuna Sea between Indonesia and Malaysia reveals the complexity of maritime boundary negotiations. UNCLOS specifies these restrictions. Whereas Malaysia bases its EEZ from the conventional one derived from its continental coastline, Indonesia, an archipelago, marks its EEZ around the Natuna Islands using the archipelagic baseline approach. The methodological differences have produced overlapping claims for EEZ, which begs issues particularly regarding the fishing and resource use.

Articles 74 and 83 of UNCLOS set a legal framework whereby conflicting parties must resolve their differences by peaceful negotiations, thus prohibiting unilateral actions that might lead to the situation. The boundaries of the EEZ between Indonesia and Malaysia in the North Natuna Sea should be limited by regional stability, proportionality, and an equitable share of sovereign rights over resources. Agreements between Indonesia and Vietnam as well as Tunisia and Libya show clear precedents showing that, given they are fair and mutually agreed upon, the demarcation of EEZ and CS boundaries can happen independently and need not align.

Supported by special envoys and ongoing negotiations, the bilateral diplomatic initiatives exhibit first national commitment of both countries. Still, it is challenging to establish the North Natuna Sea EEZ; this is mostly due to Malaysia's less priority on this region than Indonesia. Different interpretations of past boundary agreements, especially the 1969 CS Agreement, increase the negotiating pressure. Engaging in the North Natuna Sea EEZ calls one to respect financial, legal, and strategic elements. Given their abundance of hydrocarbon and fisheries, both nations rely on the region for national defence, energy, and food security. Concerns among fishers will keep aggravating bilateral relations and increasing the possibility of overt violence in the absence of a clear solution.

The different boundary lines proposed by Indonesia and Malaysia for the EEZ in the North Natuna Sea indicate their differing interpretations of UNCLOS principles. Indonesia employs the equidistance method to delineate the EEZ, according with Article 74 of the UNCLOS. Conversely, Malaysia adheres to the CS boundary established in 1969 and seeks its application as the EEZ boundary as well. This method is fundamentally defective since it conflates the distinctions between the EEZ and the CS, which are two distinct legal frameworks with their own regulations for boundary delineation under UNCLOS. Conversely, Indonesia's strategy to delineate the EEZ from the CS may complicate future management, particularly if the limits of the two regimes do not align and intersect. This tension engenders legal ambiguity and facilitates extended litigation. Consequently, alongside promoting bilateral negotiations grounded in equitable solutions, a tangible proposal to consider is the creation of a JDA in overlapping regions, serving as a mechanism for just and peaceful transitional cooperation until a definitive resolution is achieved concerning the maritime boundaries of the two nations.

UNCLOS arranges arbitration, mediation, or negotiation to help to resolve conflicts. In this sense, Indonesia and Malaysia should open bilateral diplomatic channels and maintain the possibility of involving international forums including the ICJ or ITLOS in should of a negotiated deadlock. The primary decisions rely on unofficial contacts and the evolution of bilateral agreements preserving equality, proportionality, and the supremacy of international law. Thus, both governments must improve their activities in line with the UNCLOS Articles 74(3) and 83(3), in order avoiding actions that might aggravate the situation while aiming at a peaceful settlement. Good maritime diplomacy depends on a methodical approach including accurate maritime mapping, environmental concerns, and respect of coastal community customary rights. Thus, resolving the overlapping EEZ in the North Natuna Sea calls for sincerity, openness, and willingness to negotiate from Indonesia and Malaysia to guarantee fair results, regional stability, and sustainable management of marine resources in line with UNCLOS criteria. With this settlement, the application of the law of the sea in maintaining justice and peace in Southeast Asia will have a strong precedent.

The determining of the EEZ basically establishes the maritime boundary conflict between Indonesia and Malaysia in the North Natuna Sea. Apart from major violations like the use of illegal fishing equipment, which allows detention, the 2012 MoU states that a vessel from one nation entering another's EEZ has exclusive rights to expulsion. This implies that both governments are avoiding aggravating the situation and stressing diplomatic means of resolving regional problems. By means of careful determination of the EEZ boundary in the North Natuna Sea, legal uncertainty will be minimised and maybe avoided conflict is avoided. The UN Charter and UNCLOS forward the peaceful resolution of issues by means of negotiations, mediation, good offices, international settlement. Good offices and mediation give voluntary participation first importance; they help cooperatively to reach consensus without enforcing a formal legal resolution. Under these circumstances, ASEAN could be a key neutral mediator providing AMF-style communication enhancement tools and technical support.

Strong motives from both sides will define how effectively the settlement process, dependent on good offices and mediation, in maintaining peace. Should bilateral settlement turn out insufficient, one can refer to an international forum such as the ICJ or ITLOS. Should both nations agree to the authority of the ICJ, it will provide a clear, legally enforceable ruling maintaining the primacy of international law. Among the involved parties, one may get dissatisfied over the protracted and expensive ICJ procedures.

ITLOS offers a more exact and quick method for resolving EEZ boundary conflicts under the law of the sea by means of better equity and equidistance criteria. ITLOS also considers other topographical factors such coastline layout and the presence of few islands. Should bilateral negotiations fall short, ITLOS offers a reasonable replacement in line with UNCLOS. By contrast, under Annex VII of UNCLOS arbitration provides a more flexible and quick resolution free from the need for past mutual agreement. The arbitration the Philippines filed against China in the South China Sea demonstrates how one nation might unilaterally launch a conflict using arbitration. This arbitration is mandatory and final; thus, the settlement process proceeds independent of the absence of one party.

Every method of settlement, including mediation, good offices, adjudication at the ICJ or ITLOS, and arbitration, must follow the principle of justice, evaluate the ratio of coastline length and geographical configuration, and help to provide regional stability. Including a neutral entity like ASEAN or technical support from a different organisation might help the resolution outcomes to be more legitimate and successful.

Apart from the delimitation of maritime area, the settlement of the EEZ establishing problem between Indonesia and Malaysia in the North Natuna Sea guarantees fair and sustainable management of marine resources, preserves regional stability, and improves the international legal framework. Thus, it is quite essential to integrate bilateral, regional, and international projects with great political commitment and reciprocal confidence from both sides. Constant diplomatic initiatives guard regional resources, stop direct confrontation, and produce a fair agreement.

ACADEMIC SOURCES

A) PRIMARY SOURCES

1- Convention Based Regimes

Agreement between the Government of Australia and the Government of the Republic of Indonesia Establishing Certain Seabed Boundaries in the Area of the Timor and Arafura Seas, 18 May 1971, <<https://treaties.un.org/doc/publication/unts/volume%20974/volume-974-i-14123-english.pdf>> accessed 9 December 2024.

Agreement between the Government of Malaysia and the Government of Indonesia on the delimitation of the continental shelves between the two countries, 27 October 1969 <<https://www.un.org/depts/los/legislationandtreaties/pdf/treaties/mys-idn1969cs.pdf>> accessed 11 November 2024.

Agreement between the Government of the Republic of Indonesia and the Government of Australia on the Delimitation of the Exclusive Economic Zone Boundary and Certain Seabed Boundaries, 10 March 1997, <<https://www.un.org/depts/los/LEGISLATIONANDTREATIES/PDFFILES/TREATIES/AUS-IDN1997EEZ.pdf>> accessed 9 December 2024.

Agreement between the Government of the Socialist Republic of Vietnam and the Government of the Republic of Indonesia concerning the delimitation of the continental shelf boundary, No. 44165, 2003, United Nations Treaty Collection (2007) <<https://treaties.un.org/doc/publication/unts/no%20volume/part/i-44165.pdf>> accessed 20 November 2024.

ASEAN, Charter of the Association of Southeast Asian Nations (adopted 20 November 2007, entered into force 15 December 2008) <<https://asean.org/wp-content/uploads/images/archive/publications/ASEAN-Charter.pdf>> accessed 11 January 2025.

Memorandum of Understanding between the Government of the Republic of Indonesia and the Government of Malaysia in Respect of the Common Guidelines Concerning Treatment of Fishermen by Maritime Law Enforcement Agencies of Malaysia and the Republic of Indonesia (2012). <<https://faolex.fao.org/docs/pdf/bi-214460.pdf>> accessed 09 January 2025.\

Statute of the International Court of Justice (adopted 26 June 1945, entered into force 24 October 1945) <<https://www.icj-cij.org/statute>> accessed 30 December 2024.

Treaty of Amity and Cooperation in Southeast Asia (adopted 24 February 1976, entered into force 21 June 1976) 1025 UNTS 15063 <<https://treaties.un.org/doc/Publication/UNTS/Volume%201025/volume-1025-I-15063-English.pdf>> accessed 02 January 2025.

United Nations Convention on the Law of the Sea, (Montego Bay, adopted on 10 December 1982, entered into force 16 November 1994), [1998] United Nations Treaty Series, Vol. 1833, p. 397 <https://www.un.org/depts/los/convention_agreements/texts/unclos/unclos_e.pdf> accessed 28 November 2024.

United Nations Convention on the Continental Shelf (adopted 29 April 1958, entered into force 10 June 1964) United Nations Treaty Series, Vol. 499, p. 311 <https://legal.un.org/ilc/texts/instruments/english/conventions/8_1_1958_continental_shelf.pdf> accessed 7 January 2025.

2- National Regimes

Malaysia, Act 317 of 1985 about the Fisheries <<https://faolex.fao.org/docs/pdf/mal1869.pdf>> accessed 1 January 2025.

Malaysia, Exclusive Economic Zone Act 1984 (Act 311) <https://www.un.org/depts/los/LEGISLATIONANDTREATIES/PDFFILES/MYS_1984_Act.pdf> accessed 5 January 2025.

Malaysia, Federal Constitution (amendments up to P.U.(A) 164/2009) <https://www.jac.gov.my/spk/images/stories/10_akta/perlembagaan_persekutuan/federal_constitution.pdf> accessed 5 January 2025.

Republic of Indonesia, Government Regulation No 37 of 2008 on the Rights and Obligations of Foreign Ships Passing Through Archipelagic Sea Lanes <<https://peraturan.bpk.go.id/Details/52450>> accessed 5 January 2025.

Republic of Indonesia, Government Regulation No 38 of 2002 on the Geographic Coordinate List of Baselines for Indonesian Archipelagos <<https://jdih.kkp.go.id/peraturan/pp-38-2002.pdf>> accessed 5 January 2025.

Republic of Indonesia, Law No 5 of 1983 on the Exclusive Economic Zone <https://portal.ahu.go.id/uploads/uploads/dl/PP_UU/Dit.HIOP/hukum-laut-udara-lingkungan/hukum-laut/UU%20No.%205%20Tahun%201983.pdf> accessed 5 January 2025.

Republic of Indonesia, Law No 6 of 1996 on Indonesian Waters <<https://peraturan.bpk.go.id/Details/45213>> accessed 5 January 2025.

Republic of Indonesia, Law No 17 of 1985 on the Ratification of the United Nations Convention on the Law of the Sea 1982 <<https://peraturan.bpk.go.id/Download/35773/UU%20Nomor%2017%20Tahun%201985.pdf>> accessed 5 January 2025

Republic Indonesia, Law No 32 of 2014 on Maritime Affairs, <<https://peraturan.bpk.go.id/Details/38710>> accessed 11 January 2024.

Republic of Indonesia, Law No 43 of 2008 on State Territory <<https://peraturan.bpk.go.id/Details/38684>> accessed 5 January 2025.

Republic of Indonesia, Law No. 45 of 2009 on Amendments to Law No 31 of 2004 on Fisheries <<https://faolex.fao.org/docs/pdf/ins97600.pdf>> accessed 2 January 2025.

Republik Indonesia, Presidential Regulation No 55 of 2015 on Amendments to Presidential Regulation No 17 of 2012 on Special Envoys of the President, Special Staff of the President, and Special Staff of the Vice President <<https://peraturan.bpk.go.id/Details/41794/perpres-no-55-tahun-2015>> accessed 12 December 2024.

Republik Indonesia, Presidential Decree No 89 of 1969 on Ratification the Agreement Between the Republic of Indonesia and the Government of Malaysia on the Determination of the Continental Shelf Boundary Between the Two Countries <<https://peraturan.bpk.go.id/Details/105468/keppres-no-89-tahun-1969>> accessed 12 November 2024.

Republik Indonesia, The Decree of the Minister of Marine Affairs and Fisheries of the Republic of Indonesia No 19/Kepmen-KP/2022 on the Estimation of Potential, Allowable Catch, and Level of Utilization of Fish Resources in the State Fisheries Management Area of the Republic of Indonesia <<https://peraturan.bpk.go.id/Details/230460/permen-kkp-no-19-tahun-2022>> accessed 22 November 2024.

B) SECONDARY SOURCES

1- Doctrine

a) Books

Aaron L. Shalowitz., *Shore and Sea Boundaries*, US Government Printing Office Washington, 1962.

Barbara Kwiatkowska., *The 200 Mile EEZ in the New Law of the Sea*, Martinus Nijhoff Publishers, Netherlands, 1983.

Division for Ocean Affairs and the Law of the Sea Office of Legal Affairs., *Handbook on the Delimitation of Maritime Boundaries*, United Nations, New York, 2000.

Donald R Rothwell and Tim Stephens., *The International Law of the Sea*, 2nd edn, Bloomsbury Publishing, 2016.

- Hasjim Djalal., *Indonesia and the Law of the Sea*, Centre for Strategic and International Studies, Jakarta. 1995.
- Huala Adolf., *Hukum Penyelesaian Sengketa Internasional*, Sinar Grafika, 2004.
- I Made Andi Arsana., *Batas Maritim Antarnegara: Sebuah Tinjauan Teknis dan Yuridis*, 1st edn, Gadjah Mada University Press, 2007.
- I Made Pasek Diantha., *Zona Ekonomi Eksklusif Indonesia Berdasarkan Konvensi Hukum Laut PBB 1982*, Mandar Maju, 2002.
- International Hydrographic Organization., *Technical Aspects of the United Nations Convention on the Law of the Sea (TALOS) Manual*, 5th edn, International Hydrographic Bureau, 2014.
- James Harrison., *Making the Law of the Sea (A Study in the Development of International Law)*. Cambridge University Press, United Kingdom, 2013.
- Louis B. Sohn., *Law of the Sea in a Nut Shell*, West Publishing Co. United States of America, 2010.
- Myron H. Nordquist, Satya N. Nandan, and James Kraska., *UNCLOS 1982 Commentary: Supplementary Documents*, Martinus Nijhoff Publishers, Leiden, Boston, 2012.
- Rachmat Hartono., *Penentuan Batas Maritim Indonesia Dengan Palau Berdasarkan Unclos 1982*, Surabaya: Institut Teknologi Sepuluh Nopember, 2015.
- Robert D. Kaplan., *Asia's Cauldron: The South China Sea and the End of a Stable Pacific*. Random House, 2014.
- Robin Rolf Churchil and Alan Vaughan Lowe., *The Law of the Sea, Second Edition Revised and Enlarged*, Manchester University Press, Oxford Road, United Kingdom. 1992.
- Stephen Fietta and Robin Cleverly., *A Practitioner's Guide to Maritime Boundary Delimitation*, Oxford University Press, United Kingdom. 2016.

The Naval Hydro-Oceanography Center of the Republic of Indonesia., *Bunga Rampai Penetapan Batas Maritim RI – Negara Tetangga*, Pushidrosal, 2019.

Thomas Cottier., *Equitable Principles of Maritime Boundary Delimitation (The Quest for Distributive Justice in International Law)*, Cambridge University Press, United Kingdom, 2015.

Yoshifumi Tanaka., *The International Law of the Sea*, 2nd edn, Cambridge of University Press, United Kingdom. 2015.

b) Articles

Annisa Purwatiningsih., 'Eksplorasi dan Eksploitasi Pertambangan Minyak dan Gas Bumi di Laut Natuna Bagian Utara Laut Yurisdiksi Nasional Untuk Meningkatkan Kesejahteraan Masyarakat di Pulau Natuna' *Journal Reformasi* (2012) Vol 2 (2), p. 61.

Arie Afriansyah., 'Claiming Fish in the Disputed Exclusive Economic Zone: Indonesian Practice,' *Asia-Pacific Journal of Ocean Law and Policy* (2019) Vol 4 (2) p. 291-298.

Damos Dumoli Agusman and Citra Yuda Nur Fatihah, 'Celebrating the 25th Anniversary of UNCLOS Legal Perspective: The Natuna Case' *Indonesian Journal of International Law*. (2020) Vol 17 (4), p. 539-564.

Eddy Pratomo., 'Indonesia-Malaysia Maritime Boundaries Delimitation: A Retrospective' *Padjajaran Journal of International Law*, (2019), Vol. 3 (1), p. 18-28.

Hamzah, et al., 'The Maritime Boundaries of Malaysia and Indonesia in the Malacca Strait: an Appraisal' *Australian Journal of Maritime and Oceans Affairs*, (2014) Vol. 6 (4), p. 207- 226.

Hasjim Djalal., 'Indonesian Maritime Boundaries and Disputes' *Indonesian Journal of International Law*, (2012) Vol 9 (4) p. 538-560.

Indah Dwi Qurbani, Mieke Yustia Ayu Ratna Sari, Andri Yanto, and Faidatul Hikmah., 'About an Oil and Natural Gas Mining Treaty in the High Seas of the North Natuna

Region with Economic, Legal and Environmental Aspects' *Juridical Tribune - Review of Comparative and International Law* (2024) Vol 14 (2) p. 301-320.

Katharina MacKay and Richard Collins., 'Reorienting approaches to maritime boundary disputes: A case for hydro-diplomacy?' (2025) 17 (1) *Marine Policy* 106442. p. 1-9

Marsdianto, Agis Winarna, and Bonifasius G. Andjioe., 'Strategy for Handling Illegal Fishing by the Baharkam Police Chief in the North Natuna Sea to Strengthen National Security' *Journal of Education, Humaniora and Social Sciences*, (2024) Vol 7 (2), p. 664-673.

Natsir, S.M et al., 'Komunitas Foramenifera Bentik di Perairan Kepulauan Natuna' *Journal of Tropical Marine Science and Technology*, (2016), Vol 3 (2), p. 21-31.

Ria Tri Vinata and Masitha Tismananda Kumala., 'Joint Security Efforts to Combat IUU Fishing in the Waters of Indonesia' *Lex Portus* (2023) Vol 9 (3), p. 36 – 49.

Ria Tri Vinata, Masitha Tismananda Kumala, and Cita Yustisia Serfiyani., 'Climate change and reconstruction of Indonesia's geographic basepoints: Reconfiguration of baselines and Indonesian Archipelagic Sea lanes' *Marine Policy* (2023) Vol 148 (1), p. 1-6.

Rio Adhitya and Yuriz Wibowo., 'Illegal Fishing di Laut Natuna Utara: Analisis Hukum Internasional dan Kebijakan Indonesia' *Journal of International Law*, (2022) Vol 10 (2), p. 142-158.

Robert Beckman., 'UNCLOS and Its Impact on Maritime Boundary Disputes in Southeast Asia.' *Asian Journal of International Law*, (2013), Vol 3 (2), p. 214-246.

Robert Beckman and Clive Schofield., "Energy Resources in the South China Sea: Challenges and Opportunities." *Asian Journal of International Law*, (2021) Vol 11(3), p. 347-372.

Rosmini Yanti and Wahyu Taufiqurahman., 'Pengaruh Klaim Wilayah di Laut Natuna Utara terhadap Ekonomi dan Keamanan Maritim' *Proceeding Research of Marine*

Socio-Economic Research Policy and fishery 2020. ISBN:97823_7651_67_3 (Marine and Fisheries Research and Human Resources Agency, Ministry of Marine Affairs and Fisheries of the Republic of Indonesia, (2020) p. 291-296.

Rosmini Yanti, Safira Aviolita, and Marsetio., 'Judicial Review of Indonesia's Position as Archipelagic State to Implement the Traffic Separation Scheme to Establish Maritime Safety and Security' *International Journal of Law and Political Sciences*, (2020) Vol 14 (12) p.1176-1180.

RS Pomeroy et al., 'Fisheries Management Challenges in the South China Sea' *94 Marine Policy*. (2018) p. 78-85.

Shannet Febriyanti, Kresno Buntoro, and Roslin Panjaitan., 'Penegakan Hukum di Undelimited Area yang Berbatasan dengan Vietnam guna Mempertahankan Hak Berdaulat Di ZEEI' *Journal Indonesia Maritime*. Vol 8 (2). p. 244-259.

Suryadi, Suryadi, Irman Irman, Atika Thahira, et al., 'The Resolution of Unilateral Claims and Maritime Features by Other Countries on Indonesia's Sovereign Rights in the North Natuna Sea through the PAC to Strengthen the Maritime Fulcrum in Indonesia' (2024) Vol. 134, p. 1-15, Les Ulis: EDP Sciences <<https://www.proquest.com/conference-papers-proceedings/resolution-unilateral-claims-maritime-features/docview/3188757469/se-2>> accessed 24 April 2025.

Willem Thobias Fofid., 'Strategi Pengembangan Pelayaran Perintis Dengan Analisa Swot Menuju Penguatan Program Tol Laut Dan Indonesia Sebagai Poros Maritim' *Journal Dinamika Bahari*, (2019) Vol 9 (2), p. 2307-2316.

Yayat Ruyat., 'Peran Indonesia dalam Menjaga Wilayah Laut Natuna dan Menyelesaikan Konflik Laut Tiongkok Selatan' *Journal Lemhanas RI*, (2017) 29, p.67-75.

c) Reports

Andreas Yoga Prasetyo: 'Sengketa Perairan, Pesona Kedaulatan di Natuna' (2020) <<https://www.kompas.id/baca/riset/2020/01/09/pesona-kedaulatan-di-natuna>> accessed 23 November 2024.

Andriamampionona L.Tienh *et al*: 'Efforts in maintaining fisheries potential in the North Natuna Sea: Indonesian government policy against illegal, unregulated, and unreported fishing seen from the Global Maritime Fulcrum perspective' *CABI Digital Library* <<https://www.cabidigitallibrary.org/doi/pdf/10.5555/20210374056>> accessed 27 November 2024.

Antara News: 'Indonesian Government Inaugurates Name of N Natuna Sea' (2017) <<https://en.antaranews.com/news/111846/indonesian-government-inaugurates-name-of-n-natuna-sea>> accessed 19 December 2024.

Aristyo Rizka Darmawan: 'What Does the Indonesia-Vietnam EEZ Agreement Mean for the Region?', Centre for International Law, National University of Singapore (2023), <<https://cil.nus.edu.sg/blogs/what-does-the-indonesia-vietnam-eez-agreement-mean-for-the-region/>> accessed 17 November 2024.

Arron N. Honniball: 'Malaysia/Indonesia: Two Maritime Delimitation Agreements Signed' (2023) <<https://demaribus.net/2023/06/12/malaysia-indonesia-two-maritime-delimitation-agreements-signed/>> accessed 14 November 2024.

ASEAN, 'Maritime Cooperation: Peaceful, Secure and Stable Region' <<https://asean.org/our-communities/asean-political-security-community/peaceful-secure-and-stable-region/maritime-cooperation/?utm>> accessed 11 January 2025.

ASEAN, 'Major Sectoral Bodies and Committees' <<https://asean.org/our-communities/asean-political-security-community/peaceful-secure-and-stable-region/maritime-cooperation/major-sectoral-bodies-committees/?utm>> accessed 11 January 2025

BBC News: 'Natuna: Sengketa Indonesia dengan China di Laut Cina Selatan' (2015) <https://www.bbc.com/indonesia/dunia/2015/12/151230_dunia_indonesia_natuna> accessed 12 December 2024.

Buku Saku 2024: *Data 2023* <<https://diskan.natunakab.go.id/wp-content/uploads/2024/07/BUKU-SAKU-2024-DATA-2023.pdf>> accessed 8 December 2024.

Cabinet Secretariat of the Republic of Indonesia, '*Presiden Jokowi Tunjuk Eddy Pratomo Jadi Utusan Khusus Penetapan Batas Maritim RI-Malaysia*' (17 November 2015) <<https://setkab.go.id/presiden-jokowi-tunjuk-eddy-pratomo-jadi-utusan-khusus-penetapan-batas-maritim-ri-malaysia/>> accessed 12 December 2024.

Chairijah, *Aspek Hukum Pemanfaatan Zona Ekonomi Eksklusif Dalam Rangka Peningkatan Pendapatan Nelayan Indonesia* (National Legal Research and Development Center, National Legal Development Agency 2005) <<https://bphn.go.id/data/documents/17Penelitian%20ZEE.pdf>> accessed 5 January 2025.

Clive Schofield, 'Maritime Boundary Delimitation' (the 2024 Yeosu Academy of the Law of the Sea, Yeosu South Korea, 28 October 2024).

Clive Schofield, 'Overlapping Maritime Claims Areas and Maritime Joint Development Zones' (Australian National Centre for Ocean Resources and Security, Wollongong, 13 August 2024).

Coalter G. Lathrop, 'Dispute Settlement' (the 2024 Yeosu Academy of the Law of the Sea, Yeosu South Korea, 22 October 2024).

CNN Indonesia, 'Laut China Selatan Memanas, RI Tolak Nego China soal Natuna' (2020) <<https://www.cnnindonesia.com/internasional/20200614073325-106-513088/laut-china-selatan-memanas-ri-tolak-nego-china-soal-natuna>> accessed 12 December 2024.

Directorate General of Defense Strategy Defense Area Directorate, Ministry of Defense of the Republic of Indonesia: '*Konsep Penetapan Batas Zona Ekonomi Eksklusif Indonesia-Malaysia*' (2010) <https://www.kemhan.go.id/itjen/wp-content/uploads/2017/05/zee_lcs.pdf> accessed 11 November 2024.

Fauzan Fauzan: 'Border Security Problems in the Waters of the Natuna Islands: Between National Boundaries and Illegal Fishing' (2019) <https://www.researchgate.net/figure/Map-of-Overlaps-in-North-Natuna-Waters-South-China-Sea_fig1_337840466> accessed 15 November 2024.

Federal Constitution <https://www.jac.gov.my/spk/images/stories/10_akta/perlembagaan_persekutuan/federal_constitution.pdf> accessed 11 December 2024.

Flanders Marine Institute, '*Malaysian Exclusive Economic Zone (EEZ)*' (Marine Regions, 20 November 2019) <<https://www.marineregions.org/gazetteer.php?p=details&id=8483>> accessed 28 November 2024.

Geospatial Information Agency of the Republic of Indonesia (2019) <<https://simpatig.big.go.id/peta/detail/198>> accessed 29 November 2024.

Geospatial Information Agency of the Republic of Indonesia <https://big.go.id/uploads/ebook/EBookGeospasial/26/FAIsi_JelajahPantaiIndonesia.pdf> accessed 8 December 2024.

H.E. Ambassador Hussein Haniff, Malaysia Permanent Mission to the United Nations, 'devoted to the commemoration of the thirtieth anniversary of the opening for signature of the 1982 United Nations Convention on the Law of the Sea' (2012) <https://www.un.int/malaysia/sites/www.un.int/files/Malaysia/67th_session/2012-12-11_unclos.pdf> accessed 28 November 2024.

H Kusuma.: 'Diintai China, Ini Dia Kekayaan RI di Laut Natuna' (2020) Detik.com <<https://finance.detik.com/berita-ekonomi-bisnis/d-4855261/diintai-china-ini-dia-kekayaan-ri-di-laut-natuna/2>> accessed 8 December 2024.

International Court of Justice, 'The Court' <<https://www.icj-cij.org/court>> accessed 30 December 2024.

International Court of Justice, 'How the Court Works' <<https://www.icj-cij.org/en/how-the-court-works>> accessed 30 December 2024.

International Tribunal for the Law of the Sea, 'The Tribunal' <<https://www.itlos.org/en/main/the-tribunal/the-tribunal/>> accessed 29 December 2024.

ISEAS.: 'Indonesia-Vietnam Maritime Boundaries' (2023) <<https://sealionplus.iseas.edu.sg/nodes/view/34263>> accessed 9 December 2024.

Kenneth B. and Anne H.H.: 'This Country Profile for Indonesia is from the Maritime Awareness Project' (2024) The National Bureau of Asian Research <<https://www.nbr.org/publication/indonesia/>> accessed 15 November 2024.

Lan Anh, *Joint Development between Malaysia and Vietnam* (Centre for International Law, National University of Singapore, June 2011) <<https://cil.nus.edu.sg/wp-content/uploads/2011/06/Session-5-Lan-Anh-Joint-development-between-Malaysia-Vietnam-pdf.pdf>> accessed 09 January 2025.

Ministry of Defense of Republic of Indonesia, *Zona Ekonomi Eksklusif dan Laut China Selatan* (2017) <https://www.kemhan.go.id/itjen/wp-content/uploads/2017/05/zee_lcs.pdf> accessed 12 December 2024.

Ministry of Defence of the Republic of Indonesia, *Peraturan Perbatasan* <<https://www.kemhan.go.id/itjen/wpcontent/uploads/migrasi/peraturan/perbatasan.pdf>> accessed 12 December 2024.

Ministry of Defense, *Konsep Penetapan Batas Zee Indonesia - Malaysia Di Laut China Selatan* <https://www.kemhan.go.id/itjen/wp-content/uploads/2017/05/zee_lcs.pdf> accessed 9 January 2025.

Ministry of Marine Affairs and Fisheries Meeting Documents <https://jdih.kkp.go.id/bahanrapat/bahanrapat_04012022133730.pdf> accessed 8 December 2024.

Ministry of Marine Affairs and Fisheries of the Republic of Indonesia 'KKP Amankan 3 Kapal Asing di Laut Natuna dan Selat Malaka' (5 May 2024) *Kementerian Kelautan*

dan Perikanan <<https://kkp.go.id/news/news-detail/kkp-amankan-3-kapal-asing-di-laut-natuna-dan-selat-malaka.html>> accessed 10 December 2024.

National Hydraulic Research Institute of Malaysia (NAHRIM), 'Sea Level Rise in Malaysia' (*MyCoast*, 2024) <https://mycoast.nahrim.gov.my/portal-main/photo-gallery-details?id=sealevelrise_malaysia> accessed 9 Desember 2024.

Natuna Regency: *Natuna: Potensi dan Peluang Investasi di Kabupaten Natuna* (2018) <<https://natunakab.go.id/potensidan-peluang-investasi-di-kabupaten-natuna/>> accessed 8 December 2024.

Sovereign Limits: *Indonesia-Vietnam Maritime Boundaries* <<https://sovereignlimits.com/boundaries/indonesia-vietnam-maritime>> accessed 9 December 2024.

Syaiful W Harahap: '*Indonesia Diminta Tegas Menanggapi Protes China Terkait Natuna*' (2021) <<https://www.tagar.id/indonesia-diminta-tegas-menanggapi-protes-china-terkait-natuna>> accessed 27 November 2024.

The Jakarta Post 'ASEAN Should Duly Reconsider Its Decision-Making Process' (Jakarta, 8 August 2023) <<https://www.thejakartapost.com/paper/2023/08/08/asean-should-duly-reconsider-its-decision-making-process.html>> accessed 11 January 2025.

The Report of the Ministry of Defense of the Republic of Indonesia: '*Konsep Penetapan Batas ZEE Indonesia-Malaysia di Laut China Selatan*' (2010) <https://www.kemhan.go.id/itjen/wp-content/uploads/2017/05/zee_lcs.pdf> accessed 11 November 2024.

Thomas Heidar, 'The Exclusive Economic Zone' (the 2024 Yeosu Academy of the Law of the Sea, Yeosu South Korea, 22 October 2024).

Yogi Eka Sahputra, '*Nasib Nelayan Natuna: Terusir Dari Laut Sendiri, Ditangkap di Laut Malaysia*' (*Mongabay Indonesia*, 19 September 2022) <<https://www.mongabay.co.id/2022/09/19/nasib-nelayan-natuna-terusir-dari-laut-sendiri-ditangkap-di-laut-malaysia/>> accessed 26 April 2025.

2- Court Decisions

Bay of Bengal Maritime Boundary Arbitration (Bangladesh v India) (Final Award, 7 July 2014) PCA Case No 2010-16 <<https://pca-cpa.org/en/cases/18/>> accessed 29 December 2024.

Dispute Concerning Delimitation of the Maritime Boundary between Bangladesh and Myanmar in the Bay of Bengal (Bangladesh v Myanmar) (Judgment, 14 March 2012)
ITLOS Case No 16
<https://www.itlos.org/fileadmin/itlos/documents/cases/case_no_16/published/C16-J-14_mar_12.pdf> accessed 29 December 2024.

Dispute Concerning Delimitation of the Maritime Boundary between Ghana and Côte d'Ivoire in the Atlantic Ocean (Ghana v Côte d'Ivoire) (Judgment, 23 September 2017)
ITLOS Case No 23
<https://www.itlos.org/fileadmin/itlos/documents/cases/case_no.23_merits/23_published_texts/C23_Judgment_20170923.pdf> accessed 29 December 2024.

International Court of Justice, Maritime Delimitation in the Area between Greenland and Jan Mayen I.C.J. Reports 1993, para. 65 <<https://www.icj-cij.org/node/103151>> accessed 10 January 2025.

International Court of Justice, Maritime Delimitation in the Black Sea (*Romania v. Ukraine*), Judgment, 3 February 2009, ICJ Reports 2009 <<https://www.icj-cij.org/case/132>> accessed 30 December 2024.

International Court of Justice, Tunisia/Libyan Arab Jamahiriya, I.C.J. Reports 1982 <<https://www.icj-cij.org/node/103140>> accessed 10 January 2025.

Permanent Court of Arbitration, The delimitation of Guyana's maritime boundary with Suriname and the alleged breaches of international law by Suriname in disputed maritime territory (Guyana v. Suriname) para 470. Award of the Arbitral Tribunal - September 17, 2007. <<https://pcacases.com/web/sendAttach/902>> accessed 9 January 2025.

The South China Sea Arbitration (Philippines v China) (Award, 12 July 2016) PCA Case No 2013-19 <<https://pca-cpa.org/cn/cases/7/>> accessed 29 December 2024.



ABSTRACT

The delimitation of the EEZ in the North Natuna Sea is very important for Indonesia and Malaysia to enable effective maritime management and enhance legal certainty in the area. The dispute over the determination of the EEZ boundary between Indonesia and Malaysia in the North Natuna Sea is one of the legal issues that has not been resolved until now, regardless of whether both countries have ratified UNCLOS. This study aims to investigate the legal basis of the claims made by both countries and evaluate the suitable dispute resolution process in accordance with UNCLOS. Using a doctrinal approach, supported by primary sources such as international conventions and national regimes, in addition to secondary sources, including books, articles, and reports. This study found that the differences in principles and norms between the two countries caused an ongoing dispute, as each country pursues an equitable settlement from its viewpoint. Malaysia's claim is founded on the principle of the continental shelf and the coastline's configuration, which is considered to provide rights to specific areas in the North Natuna Sea. In contrast, Indonesia used the principle of equidistant lines to establish the EEZ boundary, measured from the archipelago's baseline in accordance with UNCLOS. This study emphasises that, from a legal perspective, Indonesia and Malaysia might consider settlement options through the Non-Binding decisions mechanism, including through settlement by agreement or mediation and good offices. If the dispute cannot be resolved through negotiation, subsequently both countries may consider an alternative settlement option through binding decisions, which includes ICJ, ITLOS, or Arbitration under UNCLOS Annex VIII to achieve a final and binding settlement.

Keywords: Dispute Settlement, EEZ Delimitation, Maritime, North Natuna Sea, UNCLOS 1982.

ÖZET

Kuzey Natuna Denizi'nde Münhasır Ekonomik Bölge'nin sınırlandırılması, Endonezya ve Malezya için etkili deniz yönetimini mümkün kılmak ve bölgede hukuki kesinliği artırmak açısından çok önemlidir. Endonezya ve Malezya arasında Kuzey Natuna Denizi'nde Münhasır Ekonomik Bölge sınırının belirlenmesi konusundaki anlaşmazlık, her iki ülkenin UNCLOS'u onaylayıp onaylamadığına bakılmaksızın, şimdiye kadar çözülmemiş yasal sorunlardan biridir. Bu çalışma, her iki ülke tarafından yapılan iddiaların yasal dayanağını araştırmayı ve UNCLOS'a uygun uygun uyuşmazlık çözüm sürecini değerlendirmeyi amaçlamaktadır. Uluslararası sözleşmeler ve ulusal rejimler gibi birincil kaynakların yanı sıra kitaplar, makaleler ve raporlar gibi ikincil kaynaklarla desteklenen doktrinel bir yaklaşım kullanarak. Bu çalışma, iki ülke arasındaki ilke ve normlardaki farklılıkların, her ülkenin kendi bakış açısından adil bir çözüm arayışında olması nedeniyle devam eden bir anlaşmazlığa neden olduğunu bulmuştur. Malezya'nın iddiası, Kuzey Natuna Denizi'ndeki belirli alanlara haklar sağladığı düşünülen kıta sahanlığı ve kıyı şeridinin yapılandırması ilkesine dayanmaktadır. Buna karşılık Endonezya, UNCLOS'a uygun olarak takımadaların başlangıç çizgisinden ölçülen Münhasır Ekonomik Bölge sınırını belirlemek için eşit mesafeli çizgiler ilkesini kullandı. Bu çalışma, yasal bir bakış açısından Endonezya ve Malezya'nın, anlaşma veya arabuluculuk ve iyi niyet anlaşması yoluyla çözüm dahil olmak üzere Bağlayıcı Olmayan Kararlar mekanizması aracılığıyla çözüm seçeneklerini değerlendirebileceğini vurgulamaktadır. Anlaşmazlık müzakere yoluyla çözülemezse, daha sonra her iki ülke, nihai ve bağlayıcı bir çözüme ulaşmak için ICJ, ITLOS veya UNCLOS Ek VIII uyarınca Tahkim dahil olmak üzere bağlayıcı kararlar yoluyla alternatif bir çözüm seçeneğini değerlendirebilir.

Anahtar Kelimeler: Anlaşmazlık Çözümü, Münhasır Ekonomik Bölge Sınırlandırması, Denizcilik, Kuzey Natuna Denizi, UNCLOS 1982.