

---

## Implication of the ICJ Decision Respecting Sipadan–Ligitan Case towards Base points and Maritime Delimitation

Marcel Hendrapati<sup>a\*</sup>

<sup>a</sup> email: [mhendrapati@yahoo.com](mailto:mhendrapati@yahoo.com)

### Abstract

The ICJ decision awarding a victory to Malaysia based on effective occupation principle isn't a new one, since such this principle has already been implemented in several similar cases, such as Palmas Island, Eastern Greenland cases. In national law and international law, the decision 2002 has implication to base points and maritime boundaries. Various negotiations haven't resulted in final maritime delimitation yet due to their different view relating to base points for drawing straight archipelagic baselines and for constructing or adjusting equidistance line as maritime boundary. Therefore they shall endeavour to make a provisional arrangement and not to jeopardize or disturb the reaching of final delimitation.

**Keywords:** Sipadan-Ligitan, Base point, Archipelagic Baselines, Maritime Delimitation, Relevant/Special Circumstances, Equitable Solution, Separate Opinion (Judge Oda)

### 1. Introduction

Sipadan Island and Ligitan Island have become Malaysia's ownership since the International Court of Justice decision (ICJ decision) on December 16th, 2002.

---

\* Corresponding author.

E-mail address: [mhendrapati@yahoo.com](mailto:mhendrapati@yahoo.com).

In accordance with an agreement concluded by the President of Indonesian Republic (Soeharto) and Malaysia's Prime Minister (Mahathir Mohammad) in 1996, whatever decision of the ICJ both states were obliged to accept it as having a binding force so that it had to be obeyed and exercised by the two states [1]. Since the decision awarded sovereignty to Malaysia's side, according to the decision Republic of Indonesia had a duty to accept and respect Malaysia's ownership right over both islands, whereas they should be used as base points for Indonesian archipelagic baselines.

The ICJ decision winning Malaysia as a neighbour state over Republic of Indonesia in Sipadan – Ligitan Case was based on effective occupation. Besides the neighbour state did succeed in protecting and preserving the life environment, Malaysia established that its government did succeed in displaying any administrative governmental functions relating to the disputed islands. Application of the effective occupation principle used as a base of the ICJ decision was not the first precedent, since such the principle has already been applied by several institutions of international dispute settlement which handled many territorial disputes, including any disputes over an island.

In Palmas Island case (or Miangas Island case) involving United States and Netherlands in 1906, the institution of arbitration using single arbitrator whose name was Judge Huber applied the same principle, that is to say effective occupation principle. In opinion of the arbitration, the Government of Netherlands Indie did succeed any display of governmental functions over the island concerned peacefully and continuously[2] and this situation constituted a form of the effective occupation that created a title to that island for the Netherlands. In other words the display of governmental administration constituted a manifestation of territorial sovereignty over the Island of Palmas which was currently used as base point for drawing Indonesian archipelagic baselines.

The same principle was also applied to the case of Clipperton Island disputed by French and Mexico at the end of 19th age. In this case the arbitration gaining any jurisdiction was based on an agreement concluded by the parties to dispute. The arbitration stipulated that French had a title to the island concerned; since this state evidenced that it committed effective occupation through any proclamation of sovereignty over the island. Although French made merely a proclamation regarding its possession right and installed its national flag within the island concerned, such the act of proclamation has already been viewed as a method and form of the effective occupation. Therefore in the opinion of the arbitration, the state concerned was declared as the owner of territorial sovereignty over the Clipperton Island located in Pacific Ocean's region [3].

Malaysia's claim for Ambalatte should be understood as a prolongation of victory gained in Sipadan – Ligitan case so that the claim of the state might be considered as a creeping jurisdiction [4]. The state had ambition to extend gradually the jurisdiction over a part of Celebes Sea measured from baselines around Sabah and Sarawak and also the two islands which were obtained through the ICJ decision so that this condition led to maritime delimitation dispute.

The dispute of maritime delimitation between Republic of Indonesia and Malaysia emerged to the surface after oil company of the neighbour state (Petronas) had issued a license of exploration for two deep – water oil concession blocks, i.e. ND-6 and ND-7 to its exploration company (called as PetronasCarigali) on February 16th, 2005 [5]. The subsidiary of Petronas made joint venture in cooperation with Shellcorporation of which a number of shares belonged to Royal Dutch [6].

A part of mining block claimed by Malaysia (ND6 and ND7) overlapped with the block claimed by Indonesian country (block Ambalatte and block Eastern Ambalatte), since Indonesian Government through Pertamina had issued any exploration license to oil corporation of Italy (ENI) and oil corporation of United States (Unocal) beforehand. This area was located in southern part of the zone disputed with Malaysia, in waters deeper than waters of Tarakan. ENI Company planned any appraisal drilling, that is drilling operations on the Ambalatte block and East Ambalatte block with any purpose of assessing how many advantages might be achieved through these activities. Indonesian country claimed that the distance of Malaysia's territorial waters to Pulau Sipadan and Pulau Ligitan was about 19 KM (12 nautical miles), and that partly the concession offered by the neighbour state to Shell company and PetronasCarigali overlapped with the concession which has been offered by Indonesia to ENI and UNOCAL since 1960-es [7].

Such the dispute indicated that every state had an importance to protect and secure its national interest from a perspective of energy supply which was fundamental as a locomotive for future economic survival [8]. The dispute of maritime boundary marked with Ambalatte conflict has ever caused any tension when a high official of Indonesia urged our Government to take loud and clear attitude towards the neighbour country, including any thought of using any other ways beyond diplomatic channel.

At the same time another high official urged Indonesian Government to be consistent to construct any lighthouses on KarangUnarang (Unarang Shoal) under absolute protection of Indonesian navy, since the existing lighthouses nearby Sebatik Island was important both as warning signals for safety of navigation and mainly as identification mark of Indonesian ownership over KarangUnarang. This natural feature could be qualified as low tide elevation which in certain conditions could be used as base point to draw archipelagic baseline and to construct maritime delimitation with the neighbour state [9].

In principle the Navy sent and demonstrated by Republic of Indonesia and Malaysia at that time was aimed at creating and establishing its respective presence in maritime parts overlapped [10]. If you don't establish a presence in terms of sovereignty claims, it's a de facto recognition of the other side's claim of sovereignty. That's why whenever somebody makes a claim and you dispute it, you have to send in a counter-claim, or else you send in a diplomatic note saying that you don't recognize that claim. So presence is so very important in establishing your claim [11].

The dispute concerning Ambalatte block was not territorial sovereignty dispute because the Ambalatte was not located in territorial waters of the two states, where the breadth of these waters was maximally 12 miles measured from baselines. The mining block of Ambalatte was located in continental shelf or exclusive economic zone of which the distance could reach 200 nautical miles measured from the baselines. Although a state had sovereign rights to natural resources within 200 nautical miles zone, it did not own sovereignty over such the zone, since the status of this zone was subject to regime of sovereign rights of coastal states.

The mining block of Ambalatte which became a disputed area was located on a deepest part of waters from 500 meters until 4 km [12]. Since nowadays exploration technology has already reached a depth of 2 km, the Ambalatte area became something very significant, particularly after it was detected that any oil deposits contained therein had high quality that it needed several measures to resolve maritime delimitation based on the existing provisions and procedures of law and not to conduct unilateral act, as it had been conducted by Malaysia in 1979 and 2004.

As to maritime delimitation issue between Republic of Indonesia and Malaysia, an official of State Secretary has ever declared that it wasn't impossible that the problem of maritime boundary on overlapped and disputed area would be solved in front of the International Court of Justice, like the case of Sipadan – Ligitan. A tendentious statement of the neighbour state's authority had a close relation with any background of time-consuming negotiations on maritime delimitation between the two states.

Two chief governments, President Yudhoyono and Prime Minister Achmad Badawi discussed the Ambalatte problem by telephone at March 7th, 2005 and both chief governments had consensus to settle the dispute in a cordial and friendly manner [13].

The talks between the two leaders were followed with any meeting of the two Foreign Ministers Hassan Wirayuda and Syed Hamid Albar at 9 March 2005. They declared that the two parties took any measures needed to detain and reduce the situation and assigned special team (ad hoc committee) which should meet periodically for the purpose of managing and resolving the dispute concerned. Several meetings of the technical team were secretly conducted in order to offer the members of the team maximum flexibility to propose creative solutions, free from intrusive media scrutiny. Nevertheless any proposal submitted during the negotiations did not affect a position of each government and nothing is agreed until everything is agreed that any final result of such the negotiations was not determined. Even few years ago did Secretary of State of Indonesia; Marty Natalegawa said that the maritime delimitation in Celebes Sea would consume very long time, from 5 until 32 years [14].

In a context of negotiations on maritime delimitation, as it was known that the potentiality of oil and gas existing did absolutely play an important role and did motivate the two states to negotiate maritime boundaries in disputed area. However no party could gain disputed area as a whole, since generally it was difficult to determine accuracy of the position, quantity and quality of oil stock without extensive exploration [15]. Once an agreement on maritime delimitation was reached, the disputed marine resources possibly existed in wrong location from drawing the

baselines. It was very important when it was connected with any information saying that oil deposits within the Ambalatte block were high-grade.

In the Ambalatte block some essential elements mentioned above were of possible role during negotiations regarding maritime delimitation. If maritime delimitation lines were discussed and then mutually were received by the two parties, their problem would come to an end. However for the parties' position was contradictory, any solution was possibly difficult to reach, at least in a short time. If maritime boundary was not reached, then alternative resolution was open to do. Republic of Indonesia and Malaysia could establish wholly or partly overlapping claim as joint development zone [16]. The two states were experienced in case of joint development zone. Indonesian country and Australia were pioneers in complicated joint development zone regarding Timor Gap area, which has already been transferred in part by Timor Leste. Malaysia through two agreements of a kind made development cooperation with Thailand and Vietnam. Nevertheless in 2006 did Republic of Indonesia reject the offer of Malaysia to make cooperation in exploring oil and gas resources in waters of the Block Ambalatte. Therefore Prime Minister Abdullah Ahmad Badawi at that time recognized that the maritime delimitation problem in the Block Ambalatte wasn't something easily resolved [17].

The Government of Malaysia proposed oil companies Petronas and Pertamina make a joint development in the Ambalatte and had an expectation that any dispute did not handicap the two parties enable to cooperate over there. However Indonesian Minister for foreign affairs Hassan Wirayuda refused such the proposal of joint development because Indonesian country had the interest of giving priority to maximal efforts aimed at solving maritime delimitation permanently. If no final agreement could be reached, whereas it should be an implication of the ICJ decision regarding sovereignty over Sipadan – Ligitan, then Republic of Indonesia would not discuss joint development in managing oil and gas deposits contained therein.

Furthermore in the context of maritime delimitation settlement after the case of Sipadan – Ligitan, on 17 December 2010 Indonesian Government through Pertamina proclaimed that Petronas became a partner of Pertamina and signed a preliminary agreement on the partnership in Block East Natuna. The option of Petronas was connected with any endeavour of Indonesian Government to reduce and eradicate any dispute in frontier area, particularly in the Ambalatte area. Such the dispute has not been finalized yet, since Malaysia showed a self confident attitude and had a tendency not to be cooperative, mainly after its victory in the case of Sipadan and Ligitan[18]. On the other part a fact that Petronas joined in the Block East Natuna was believed as a strategy of Malaysia to steal a start in the region of the South China Sea. Nevertheless recently the neighbour state which has already signed Memorandum of Understanding regarding partnership in the field of gas deposits within the Block East Natuna suddenly withdrew itself based on any reasons that the Block East Natuna has not obtained anymore a priority of Petronas, since inter alia the cost of production was higher than the other field of such the deposits because the Block East Natuna was located in the deep sea. Blok East Natuna is gas field of giant size containing 46 cubic meters located in Indo ASEAN lanes.

Due to the incident, Indonesian country had to be more careful to face any possible geopolitics manoeuvre of Malaysia. Due to decrease of the gas price in international market, Malaysia had any tendency to seek and find out oil deposits, since in future time oil supply would have been absolutely more diminishing and the oil price would be absolutely longer and more increasing until a new equilibrium was achieved. It was estimated that in a short relative time Malaysia would have returned to claim the Ambalatte considering that for a greater part the natural resources contained therein consisted of oil reserve that it would have been more advantageous economically. The fact of Malaysia's withdrawal from Memorandum of Understanding (MoU) on the Partnership 2010 made a contribution to writer to explore Implication of the ICJ Decision regarding Sipadan – Ligitan Case towards Base point and Maritime Delimitation, since the ICJ decision did potentially implicate maritime boundaries between the two states in any disputed area.

This article focussed to understand 1) implication of ICJ decision relating to Sipadan – Ligitan case towards base point and maritime delimitation from national regulations of Indonesia and Malaysia point of view; 2) any solution which the two states would have conducted if they couldn't have finalized the problem of the base point and maritime delimitation in any disputed area after the decision of International Court of Justice.

## **2. Sipadan – Ligitan Case**

The case of Ligitan Island and Sipadan Island firstly occurred in 1969 when delegations of the Republic of Indonesia and Malaysia made second meeting with any purposes of establishing delimitation of the continental shelf in Celebes Sea. Several manners of settlement have already been conducted, including a mechanism of establishment of Joint Working Group on Pulau Sipadan and Pulau Ligitan on 1991. However any measures which were conducted by them did not succeed in resolving the problem of sovereignty over the two islands, considering that each party had different or contradictory arguments [20].

Such the condition ran until achievement of a special agreement based on a recommendation made by delegation of Indonesia (Murdiono) and delegation of Malaysia (Anwar Ibrahim) on 1997. The special agreement was signed by the Secretary of State of Indonesian country whose name was Ali Alatas and the Secretary of State of Malaysian country whose name was Abdullah Ahmad Badawi. In principle this agreement stipulated their consensus to submit the dispute of sovereignty over the two islands to settlement in front of the International Court of Justice. Both of them consented to submit the dispute of sovereignty to International Court of Justice jointly and not individually so that one party didn't precede the other one. The special agreement itself was ratified by each party after parliament of each state had given its approval to ratify it.

Republic of Indonesia laid claim to Pulau Ligitandan Pulau Sipadan based on London Convention 1891. Article IV of this Convention stipulated that 'from 4°10' North Latitude on the east coast the line is to be continued eastward as far parallel line across Sebatik Island: that the islands existing in the northern part of the parallel line belong to

the British North Borneo Company, whereas the islands existing in the southern part of such the line belong to Netherlands 'Indie' [21].

According to Republic of Indonesia, such the line was drawn from the eastern coast of Borneo and from the western coast of Sebatik Island across this island. Such the line was continued from the eastern coast of Sebatik Island to the sea beyond the eastern coast of this island. The line drawn across this island and from its eastern coast to the sea beyond its eastern coast should be parallel with  $4^{\circ}$  and  $10'$  North Latitude. Based on the article IV of the Convention 1891 concluded and applicable to the Netherlands and Great Britain on behalf of the British North Borneo Company (BNBC), all the islands situated in the northern sector of the  $4^{\circ}10'$  were subject to the sovereignty of the Great Britain, whereas all the islands situated in the southern sector of such the parallel line were subject to the sovereignty of the Netherlands. Pulau Ligitan and Pulau Sipadan were subject to the sovereignty of Netherlands because in fact the islands concerned existed and situated in the southern sector of the parallel  $4^{\circ}10'$ . Therefore Indonesia asserted that the parallel line  $4^{\circ}10'$  was an allocation line for sovereignty between Great Britain and Netherlands, embracing not only land territory but also maritime territory offshore Sebatik.

If the Court refused the arguments proposed by Republic of Indonesia, this state applied to the Court that it had a title to the islands as the successor of Sultan Bulungan, since the Netherlands had received the rights to the islands from him as original owner.

In the ICJ's opinion, the parallel line  $4^{\circ}$  and  $10'$  did not constitute an allocation line. The term 'across the Island of Sebatik, shall be continued eastward' was ambiguous and then interpretable and debatable.

The line which was parallel with  $4^{\circ}$  and  $10'$  North Latitude moved across the Sebatik Island from its western coast (or from eastern coast of Borneo) towards its eastern coast and in the opinion of the Court, it was not necessary that such the parallel line was continued to the sea beyond the eastern coast of Sebatik. Although such the line had to be continued any more from the eastern coast of Borneo as far the parallel line and moved across the Sebatik Island, it did not mean such the line constituted an allocation line of sovereign. According to Indonesia, Sultan Bulungan was the original owner of the two islands and he delivered them to Netherlands so that Republic of Indonesia considered itself as successor of the Sultanate. Nevertheless such this opinion was rejected by the court, since there was no proof that Sultan Bulungan has ever owned or claimed some islands of the region, including Pulau Sipadan and Pulau Ligitan.

The Republic of Indonesia claimed the islands as well on the basis of affectivities or effective occupation principle [22]. This principle was a manifestation of state sovereignty or display of governmental functions in relation to the islands and the waters around them. Such the principle was proven both by Netherlands as a Successive State and Indonesia as a Successor State receiving the heritage. The evidence of effective occupation could be seen from patrolling activities carried out by the Dutch Navy (HMS Lynx) and the Navy of Indonesian country [23]. Those

activities conducted by Indonesian fishermen within the waters around the islands contributed as well to confirm Indonesia's claim to have a title to the islands.

The ICJ could not set aside a fact that the laws Number 4 Year 1960 ( Undang-undang No.4/Prp.1960 and a map as its annex) regarding the national waters of the Republic of Indonesia) obviously did not insert Sipadan and Ligitan Islands as base points.

According to the ICJ, the patrolling activities conducted by the Royal Dutch Navy and the surveillance activities conducted by the Navy of Indonesia did not constitute effective occupation, since those activities had not any legislation and regulation character in relation with the islands.

Malaysia claimed Ligitan and Sipadan based on the arguments, such as a chain of title and affectivities [24]. In regard with the chain of title, Malaysia argued that the islands belonged to Sultan Sulu, ceded to Spain, then ceded by Spain to the United States, further ceded by United States to Great Britain in the name and on behalf of the states of the North Borneo, then ceded by Great Britain to United Kingdom of Great Britain and North Ireland and finally Malaysia succeeded United Kingdom so that the two islands were subject to the ownership or sovereignty of Malaysia.

Nevertheless in view of ICJ, there wasn't any evidence that Sultan Sulu had ever claimed the two islands as his ownership and actually carried out any authorities thereof. Spain and Sultan Sulu had signed a treaty of peace in 1878, which stipulated that the islands of Sulu and its dependencies were ceded to Spanish. However there wasn't any proof that such the state supposed and claimed if the two islands were included within the treaty.

Since a clear deficiency existed, originating in the first link, i.e. the islands did not belong to Sultan Sulu, then all the other links were not accountable from the legal aspect, where it is compatible with Latin maxim which mentioned 'Nemodat quod non habet' or Nobody could not give what he didn't have [25]. Therefore the Court concluded that Malaysia couldn't prove its sovereignty claim to the islands.

In regard to affectivities principle put forward by Malaysia to prove its claim to the islands, the Court observed that any activities for taking and harvesting the turtles and collecting their eggs could be conducted by everyone who fulfilled the terms and requirements as established in Regulation 1930 issued by the Government of United Kingdom. Such the regulation still remained applicable after the Government of United Kingdom gave freedom and independence to Malaysia in 1957. Besides the Regulation 1930, the succeeded state had made and applied as well a Regulation 1933 in a field of ecology aimed at protecting and preserving any birds living in Sipadan Island. This ecology regulation remained applicable as well after the independence of the neighbour state [26].

The Court also noted that the activities of constructing and protecting any lighthouses aimed at ensuring safety of navigation in the waters around Sipadan and Ligitan islands in 1960s. In view of the Court all the activities mentioned above had any legislative character relating to the islands so that the principle of effective occupation



invoked by Malaysia had been proven [27]. Therefore the ICJ decided that Malaysia had sovereignty over Sipadan and Ligitan. Nevertheless the decision was accompanied with dissenting opinion of Judge Franck and separate opinion of Judge Oda.

Judge Oda *inter alia* stated that although Malaysia was awarded with sovereignty over the two islands, such the decision did not have a bearing with maritime delimitation between Republic of Indonesia and Malaysia. The two islands which have been possessed by Malaysia did not absolutely affect the maritime delimitation, since Judge Oda had been suspicious of a Malaysia's motive to claim the two islands. According to him Sipadan – Ligitan case was a weak one, since each party didn't have a strong evidence to claim a right to the two islands. This was an essence of his separate opinion bringing moral message of immaterial values relating to maritime delimitation because such the opinion recommended that the delimitation of continental shelf or exclusive economic zone in certain part of Celebes Sea was not something absolutely and properly conducted. On one hand Republic of Indonesia has already obeyed and implemented special agreement 1997 and then submitted the sovereignty or ownership dispute over Sipadan and Ligitan Islands to ICJ in conformity with the will of the neighbour state. Once the ICJ made its decision, Indonesian country honoured and obeyed it, since it was final and binding based on the special agreement ratified by the parliament of each state in 1997. Moreover Republic of Indonesia recognized the Malaysia's sovereignty over the islands concerned without using its right to file a revision to the ICJ decision. The moral message of immaterial values contained in the separate opinion should have been applicable to Malaysia, since at any rate such the opinion was an integral part of the Court's decision which should have been honored and executed as well. With obeying and implementing the ICJ decision comprehensively, Malaysia would have preserved the quality of its bilateral relation with Indonesian country, since such the bilateral relation was easily disturbed after the case of Sipadan – Ligitan had been decided. Through the obedience and implementation of the Judge Oda's moral message that maritime delimitation could have been conducted without taking into account of the two islands as base points, Malaysia could have been considered preserving and protecting its good neighbourliness with Indonesian country. Through preservation and protection of the good neighbourliness, Malaysia could have been considered offering or sharing the immaterial values. Through sharing such the values, the neighbour state has not lost these values, because they have never been evaporated and exhausted.

### **3. The Neglected Sipadan Island and Ligitan Island as Base point**

A process carried out by the Court in examining the case of maritime delimitation could be divided into four levels [28]. First, identifying the relevant coast or point and baseline. Second, determining whether there was a pre-existing agreement relating to delimitation of the maritime areas. Third, determining the boundary line of territorial sea (when it was applied) with implementing the equidistance-special circumstances rule. Fourth, establishing the boundary line of continental shelf/ exclusive economic zone with implementing the equitable principles – relevant circumstances rule [29].

In exercising the maritime delimitation, the Court was at first in charge to determine the relevant coast which had to be taken into account of establishing maritime boundaries. A principle of international law developed through several cases of delimitation decided by the Court (the case law) pointed out that the land dominates the sea, since the maritime rights derived from the sovereignty of the coastal state over the territory. Therefore many maritime delimitation cases obliged the Court to hold previously the problem of sovereignty over the disputed island or some coastal areas in territory before the Court established the maritime boundary. According to article 121, paragraph 2 of United Nations Convention on the Law of the Sea reflecting international customary law, island, without taking into account of its size, has a same status with the other territory (land territory) that it had the same maritime rights. Nevertheless paragraph 3 of the same article stated that 'rocks' which cannot sustain human habitation or economic life of their own shall have no exclusive economic zone or continental shelf. Therefore the article 121, paragraph 3 was an ambiguous article due to establishment history for the legal regime relating to the island.

Since UN Convention applied, it could have been said that there have been no decision of International Court or Tribunal regarding article 121, paragraph 3. However when a case of maritime delimitation did occur between Romania v. Ukraina, this incident motivated the Court to make a decision regarding such the article. One of the central arguments within such the case was that an island called as Serpents Island was terrified by Romania, since in reality this island was a rock in terms of the article 121, paragraph 3. Therefore the Serpents Island had a right to claim territorial sea. Moreover Romania stated that Serpents Island could not be used as base point to construct equidistance line as boundary line of the exclusive economic zone or continental shelf between Ukraina and Romania. The debate between two states came to an end on 19 September 2008 and its decision was done on the early middle of 2009. Technically the decision made by the Court will only be binding Romania and Ukraina. If the Court made a decision about whether Serpents Island was a rock in terms of the article 121, paragraph 3, then consideration and reasoning of the Court regarding the problem concerned would have been reference done by authoritative interpretation towards such the provision and would have been considered both by other court and tribunal and other states.

Although there wasn't any decision made by authoritative ruling as to how the article 121 paragraph 3 should have been interpreted, the international court and tribunal in many cases discovered any alternative methods to solve the problem concerned in a context of maritime line delimitation. In many cases small islands were only given partial effect or even no effect. There was also bilateral agreement on boundary line, where the states consented to give no effect to small islands or to give partial effect in maritime delimitation.

Although Pulau Sipadan and Pulau Ligitan have already been owned by Malaysia based on the ICJ decision in 2002, in negotiating maritime delimitation in overlapping parts of continental shelf or exclusive economic zone within Celebes Sea, the authorities of Indonesian country could have been using the Romania v. Ukraine case, where the Serpents Island was not used as base point to draw maritime delimitation line in the Black Sea [30]. By virtue of many agreements of maritime delimitation neglecting and setting aside the small islands as base points so that they had no effect in constructing maritime delimitation line, such this condition could be used as a reference by the

authorities when they commit negotiating measures to achieve an agreement on maritime boundaries in the Celebes Sea.

For Malaysia the existence of Pulau Ligitan and Pulau Sipadan would be used as base points for drawing baselines, as could be seen on a map in the year 1979 and Laws on Exclusive Economic Zone 2007. However Indonesian country would make the two islands have no effect for drawing straight baselines, since relevant area on the eastern part of Malaysia (Sarawak, Sabah and Sipadan – Ligitan) did not have a fringe of islands and deeply cut into, as stipulated in article 7 of the UN Convention 1982. Furthermore would real efforts be needed in order that the two islands would not be used as base points for constructing maritime delimitation, since anyway Malaysia was a normal coastal state and not an archipelagic state. Therefore from perspective of the UN Convention the state concerned had not any right to draw straight archipelagic baselines from one base point to another base point, in this case from Sipadan Island to Sabah and Sarawak.

To neglect the function of the two islands as base points, then Republic of Indonesia had to utilize any approach justifiable based on the Law of the Sea Convention and international practice. The approach concerned was one based on special or relevant circumstances, which embrace not only geographical factors, but also non geographical factors, since such this approach did possibly eradicate the function of the two islands as base points for drawing straight archipelagic baselines. The lost function or role of the two islands to draw straight baselines would by itself eradicate the role of the two islands to construct any equidistance line as maritime boundary line in the disputed area. This condition was brought about, because what is called as special or relevant circumstances could be said have an open-ended ambit or have no closed list [31] in maritime boundary delimitation that it might be utilized to set aside the two islands as base points for drawing straight archipelagic baselines. Through utilizing optimally the principle of relevant circumstances, the several negotiations which were and will be running between the two states would have to aim at neglecting the role of the two islands not only as base points to draw archipelagic baselines, but also as base points to construct, including to adjust the equidistance line as maritime boundary, which has still been existing, like before the ICJ decision in the year 2002.

KarangUnarang offshore Sebatik Island could be said as low tide elevation and in the mid Ambalatte case occurrence, the Indonesian authority has already been successful in constructing lighthouses with purposes of asserting the identity of its owner, further its responsibility to international community, mainly when any incident emerged, where any ships passing could be shipwrecked around KarangUnarang. Since Pulau Ligitan and Pulau Sipadan were lost, for the sake of securing Indonesian archipelagic waters particularly around the disputed area, KarangUnarang shall be used as base point for drawing archipelagic baselines from Unarang Shoal to the outermost islands being located in the Celebes Sea, such as Sebatik Island, Maratua Island, Dolangan Island, Salando Island, TanjungKramat.

The two smallest islands should be classified into and qualified as ‘relevant circumstances’, since their existence could bring about a disproportionality the ratio of coastal line length which was disproportionate to the ratio of

disputed maritime area. The measures of bilateral negotiations shall be focused on, mainly neglecting or setting Pulau Sipadan and Pulau Ligitan aside as base points for drawing baselines that any adjustment to equidistance line as wished by Malaysia after Sipadan – Ligitan case on 2002 should be thought to set aside. The neglect of the two islands as base points with any consequence of neglecting the adjustment to equidistance line shall eventually bring about any implication regarding a stability of maritime delimitation on continental shelf and exclusive economic zone in Celebes Sea.

Such the neglect concept could be viewed as an implementation of international court's decision in case of Pulau Ligitan and Pulau Sipadan, particularly as the implementation of Judge Oda's Declaration, since in principle this declaration didn't wish any shift and adjustment of maritime delimitation after Malaysia's victory over Republic of Indonesia. Furthermore such the neglect concept was significant one, because it has relation with the purpose of law generally and the ICJ decision especially, i.e. to achieve justice. There is justice mentioned as distributive one and corrective one [32]. The distributive justice indicates an equilibrium existing between anything attained and anything found properly. However the corrective justice is the equilibrium existing between anything given and anything received.

Remembering that Indonesian country's side has already accepted and recognized victory of Malaysia as the owner of sovereignty over the two islands based on the ICJ decision in the year 2002 and Republic of Indonesia has already accepted and recognized its inferiority in the ownership case running for five years, then in context of the corrective justice should Republic of Indonesia attained Malaysia's commitment to respect and obey and implement the substance of the ICJ decision comprehensively, including and mainly Judge Oda's Declaration. Remembering that Malaysia has already accepted the sovereignty over the two islands, this neighbor state should have given its obedience to and compliance with the same decision substantially through setting aside and neglecting the status of the two islands as base points so that they had no effect both for drawing baselines and for adjusting of equidistant line or median line.

Remembering that Malaysia has already the commitment of Republic of Indonesia's side to follow the will of the state firstly mentioned concerning dispute settlement through ICJ in 1997, and furthermore Malaysia has already the commitment of Indonesian country to accept and carry out the ICJ decision in the year 2002. Then in framework of ensuring the distributive justice should Republic of Indonesia obtain any positive commitment of Malaysia to honor and obey and implement the substance of ICJ decision mainly reflected in separate opinion of Judge Oda, since this opinion did really reflect the substantive justice through neglecting the status of Sipadan and Ligitan as basepoints, through neglecting the construction of archipelagic baselines from Ligitan Island to Sabah Island and Sarawak, and finally neglecting any adjustment of the existing equidistance line in disputed area.

### **3. Implication of ICJ Decision to Maritime Delimitation from National Law of Each Party**

With an issue of the ICJ decision releasing the two islands from the sovereignty of Indonesian country to Malaysia, then this situation brought any implication in form of the shift in straight archipelagic baselines in maritime borders of two states. After the victory of the neighbour state, Republic of Indonesia's Government has been enacting Government Regulation Number 37 Year 2008 regarding Revision of the Government Regulation Number 38 Year 2002 regarding the Geographical Coordinate List of Base points for Indonesian Archipelagic Baselines. The essence of the Government Regulation was that Ligitan Island established as base point in the Government Regulation Number 38 Year 2002 has been erased from the list of geographical coordinate so that KarangUnarang has been established as a new base point substituting Ligitan Island, where the base point on KarangUnarang shall be connected with straight archipelagic baselines on Sebatik Island (I, II, III) and so on.

In view of Indonesian country, the straight archipelagic baselines connecting base points in boundary waters could be used as one basis to construct separate maritime boundary in territorial sea's areas overlapping with territorial sea of neighbour state. Nevertheless for the areas of continental shelf and exclusive economic zone overlapping between Republic of Indonesia and Malaysia, then with point of departure from the straight archipelagic baselines could be established and constructed single maritime boundary applied to continental shelf and exclusive economic zone overlapping [33].

Furthermore implication of the ICJ decision was that on May 2007 did Malaysia enact the Baselines of Maritime Zones Act 2006, but until this moment the state concerned has not made a map or geographical coordinate list regarding any baselines yet to follow up the Act published applicable since 2007 ago [34]. This condition did happen because Malaysia could not be categorized as Archipelagic State particularly from coastal configuration point of view, since it had no a fringe of islands based on article 7 of the UN Convention on the Law of the Sea. That is why the state concerned could not draw straight baselines from Pulau Ligitan to Sabah Island and then to Sarawak. Based on the issue of the Baselines of Maritime Zones Act 2006, it indicated that Malaysia had a strong wish to utilize and implement Archipelagic State principle and then to draw straight archipelagic baselines connecting some base points at border waters with Republic of Indonesia, that is to say the base point on Pulau Ligitan, a part of Sebatik Island, Sabah Island and Sarawak territory.

Nevertheless the wish of the state mentioned above attained any protest conducted by international community, particularly by states of South East Asian region so that the neighbour state was reluctant to issue or promulgate the map or the geographical coordinate list regarding the base points for straight archipelagic baselines. Furthermore such the baselines would possibly be used as bases for constructing its maritime boundary and then such this possibility has become a reality since the state concerned issued a license for exploration to a company derived from Netherlands. The exploration license given by Malaysia to the Dutch company referred to ND6 and ND7 as any areas of Ambalatte, whereas this mining block on Ambalatte had been explored and exploited by foreign investment (Conoco Philips) based on production sharing contract with national oil mining company (called Pertamina) so that disputed area did emerge. Although the Government of Malaysia has already promulgated the Baselines of Maritime

Zones Act, this state has not carried out yet its duties to deposit a copy of such the Act to Secretary General of the United Nations, whereas such the duties were stipulated in article 47 paragraph 9 of UN Convention 1982 [35].

#### **4. Solution resorted to in case of final delimitation has not been achieved yet.**

Indonesia and Malaysia have already been parties to UN Convention 1982, since the two states have already given consent to be bound by this Convention through ratification. Therefore they were obliged to obey and exercise the provisions of the Convention, including the provisions relating to maritime delimitation on the basis of base points between the two neighbour states. In relation with maritime boundary settlement due to issue of the ICJ decision regarding an ownership over the two islands, then based on UN Convention 1982 the two states were obliged to stipulate maritime boundaries on the continental shelf or exclusive economic zone with making an agreement according to rules of international law in order to achieve equitable solution. As long as the agreement has not achieved yet in relation with an eventual maritime delimitation, then firstly the two states shall make every effort to enter into provisional arrangements of a practical nature. Secondly, during the transitional period, they shall take every effort not to jeopardize or hamper the reaching of the final agreement, that is the reaching of agreement regarding final delimitation [36].

As a consequence or implication of the Sipadan – Ligitan case, Republic of Indonesia and Malaysia should take every effort provisional arrangements of a practical nature. They had weight duties to make negotiations with good faith in framework of creating the provisional arrangements of a practical nature as long as the problem of maritime delimitation was pending or as long as it has not been finalized yet. Such the arrangement might merely be achieved by the two states if they had spirit and commitment and awareness to create mutual understanding and cooperation to keep in peaceful coexistence. With creating provisional arrangement, the two states could promote some activities of exploitation in disputed area, even though each of them had capability to defend its position regarding final delimitation [37]. How far have Republic of Indonesia and Malaysia already taken every effort to enter into provisional arrangement which possibly contained joint development zone, such as cooperation to ensure safety of navigation, to preserve and protect marine environment, to commit marine scientific research, to explore and exploit living and non living resources, their development had to be seen through any negotiation measures conducted by the two states in order to settle maritime boundary in disputed area.

The Ambalatte water should be a zone of joint development, since its status was questioned by Malaysia, but in reality a part of Natuna Sea has ever been established as such the zone, whereas the part of Natuna Sea was not disputed area. Indonesian Government has already encouraged the neighbour state to conduct the cooperation in managing and developing natural gas resources contained in seabed of Natuna Sea. Each Government was represented by the national oil company of Indonesia (Pertamina) and the national oil company of Malaysia (Petronas). The two Governments have already made an agreement called as Memorandum of Understanding of Partnership aimed at managing and developing natural gas resources of the Natuna Sea in the year 2010. Nevertheless at the end of the year 2011 did Malaysia's side withdrew from the partnership cooperation on the basis

that besides the gas price did more and more go down in international market, the natural gas resources were located in a deep sea so that such this condition was not advantageous and the price of the gas resources was not economical.

Off course the location of joint venture mentioned above did not exist in disputed area, in this case didn't exist in Ambalatte block, but in a part of Natuna Sea. Memorandum of Understanding on the partnership (joint venture) had to be considered as a manifestation and form of provisional arrangement, since it was focused on eradicating the neighbour state's ambition to claim shift and adjustment of equidistance line as maritime delimitation line. This was more or less the view of Indonesian country which as far looked constantly consistent in serving its position regarding final delimitation after ICJ decision.

The MoU regarding partnership in Natuna Sea sponsored by Indonesian Government indicated its obedience and fulfilment to implement the provisions of the Convention obliging the two states to enter into negotiations in good faith. It was expected that through the negotiations could any agreement be achieved in establishing or concluding a provisional arrangement of practical nature as long as any consensus about final delimitation has not reached yet. In other words the implication of the ICJ decision towards maritime boundary delimitation has already begun look when the two states entered into provisional arrangement in a form of MoU on Partnership in the year 2010 to cooperate in managing and developing natural gas resources though such the cooperation was located in not in AmbalatteMining Block, but in Natuna Sea. Indonesia (in this case Pertamina) encouraged Petronas to make a partnership in exploring and exploiting natural gas resources in Natuna Sea. From Indonesia's side, such the encouragement was aimed at erasing Malaysia's ambition in claiming the Ambalatte, whereas from Malaysia's side such the encouragement was utilized to show its existence in the region of South China Sea which was dense with several territorial conflicts.

Pattern of cooperation called as joint development which was a provisional arrangement, mainly in field of fishery or mining was usually conducted by many states as a penetration and breakthrough to overcome any deadlock on negotiations regarding maritime boundary [39]. Joint Development was not something new for Republic of Indonesia, since in the period of the Government led by President Soeharto, Indonesia and Australia succeeded in concluding a treaty mentioned Timor Gap Treaty 1989 [40] as breakthrough to overcome the long and complicated negotiations's deadlock relating to any measures of delimiting the continental shelf and exclusive economic zone boundaries in a part of Timor Sea.

Besides the implementation of provisional arrangement in form of MoU on the Partnership in Natuna Sea, since final delimitation has not been achieved yet, during period of transition the two states have also implemented the duties not to jeopardize or hamper the reaching of final agreement on maritime delimitation in disputed area.

Failure of Indonesian country in the case of ownership over the two islands, brought about Malaysia's license giving for oil company Shell derived from Netherlands. Moreover any activities of patrol ships around the Ambalattewaters

with purposes of securing its policy resulted in emergence of tension between the two states. Of course the tension occurring in waters around the Ambalatte Mining Block after the ICJ decision has not created yet a fear of emerging armed conflict between the two states. The fear did not exist, since when the dispute of ownership over Pulau Sipadan and Pulau Ligitan was decided 2002, an agreement was concluded by Navy of the two states aimed at preventing any incident at sea [41]. The agreement concerned was Prevention of Incidences at Sea Agreement signed by the two states on 2003. Relating to the agreement aforementioned, then MakJoon Nam *inter alia* stipulated [38]:

When the tension escalated, this condition could be immediately erased, since there was a spirit of mutual understanding and cooperation to decrease and eradicate the tense situation, in a way of ordering the Navy of each state in order to prevent any provocative action. The issue of agreement called as Prevention of Incidences at Sea Agreement 2003 must be seen in context of implementation of the two states' duties not to jeopardize or hamper the achievement of final delimitation agreement. In the period of transition each party is obliged to prevent any incident at sea, mainly in disputed area, since every incident, including provocative deed conducted by one party, if it is not handled very carefully, certainly might jeopardize or hamper the reaching of final delimitation agreement.

Based on the article 74/ 83 of the United Nations Convention on the Law of the Sea 1982, Republic of Indonesia and Malaysia have rights and duties to maintain status quo condition, that is the position of each party regarding the settlement of final delimitation and certainly of base points, since anyway such the position is implication of the ICJ decision towards equidistance line as maritime boundary in disputed area [19].

As we know, rights and duties of the parties in maintaining the status quo relating to the position of each party to settle maritime boundary are implication of issue of the ICJ decision 2002. The position of status quo will be running well if it is conducted in a spirit of mutual understanding and cooperation based on good faith principle.

## **5. Conclusion and Recommendation**

### ***5.1 Conclusion***

#### ***Two major conclusions can be introduced:***

1. As a consequence of ICJ decision, Indonesian Government enacted Government Regulation Number 37 Year 2008 (PP 37/ 2008) regarding Revision of Government Regulation Number 38 Year 2002 (PP 38/ 2002) stipulating Geographical Coordinate List of Base points for Indonesian Archipelagic Baselines. Pulau Ligitan established as base point in PP 38/2002 was erased from the Geographical Coordinate List based on PP37/ 2008 so that the new base point substituting Pulau Ligitan was Sebatik Island (I, II and III) which would be connected with straight archipelagic baselines to base point on Unarang Shoal (KarangUnarang), then to Maratua Island etc. From the Indonesian regulation point of view some base points, mainly Unarang Shoal in Celebes Sea had to be used not merely to draw straight archipelagic baselines, but also to construct delimitation of its territorial sea, continental



shelf and exclusive economic zone, because of its status as Archipelagic State. Furtherly from the regulations of Malaysia point of view, implication of the ICJ decision was issuing or enacting Laws called as the Baselines of Maritime Zones Act 2006 on May 2007, but this Act existed without geographical coordinate list of base points for baselines, as it was ordered in article 47 paragraph 9 UN Convention. It was possible that Pulau Sipadan, Pulau Ligitan, a part of Sebatik Island, Sabah Island and territory of Sarawak would be utilized as base points both for drawing straight archipelagic baselines and for constructing through adjusting equidistance line which as far still existed as maritime boundaries between the two states.

In view of Indonesia the limits of territorial sea established by Malaysia offshore Pulau Sipadan and land territory of its own, in general wouldn't be overlapping to the limits of Indonesian country, since each state can establish the limits of its territorial sea until maximal limit, except around Sebatik Island divided due to the London Convention 1891. Nevertheless when Malaysia would construct delimitation boundary of continental shelf or exclusive economic zone in the way of utilizing its outermost islands, particularly Pulau Sipadan as base point, then Malaysia's continental shelf or exclusive economic zone boundary would be overlapping with Indonesian country, since it is impossible for the two states to claim maximal boundaries of continental shelf or exclusive economic zone.

2. Since before the ICJ decision 2002 there was no agreement on maritime boundary in area being considered as disputed area, based on judicial decisions every state could not establish maritime delimitation boundary beyond median line (equidistance line) for the sake of the achievement of equitable solution. Nevertheless after Sipadan – Ligitan case the two states negotiated to delimit maritime boundary. Until now Republic of Indonesia endeavoured to set aside and neglect the role of the two islands as base points in order to reach the equitable solution. In the middle of failure of reaching final delimitation, the two states conducted not provisional arrangement, but mutual restraint, as it was discovered in Prevention of Incidences at Sea Agreement 2003. This agreement was very important, if it was connected with the the two states' duty not to jeopardize or disturb final delimitation in disputed area. Through the presence of the Agreement 2003, the two states can constantly carry out several activities in disputed area, and they can simultaneously serve and maintain their respective position respecting finalization of maritime delimitation lines after Sipadan – Ligitan case. This is the solution which is necessary to exercise if the problem about maritime delimitation finalization has not settled yet.

## **5.2 Recommendations**

1. Malaysia's position during the negotiation process wished to conduct any equidistance line as maritime boundary in disputed area. Such this position implied and indicated Malaysia's claim to utilize the two islands (Sipadan and Ligitan) as base points to draw straight archipelagic baselines and to construct maritime delimitation through any efforts of adjustment of equidistance line after the ICJ decision. The adjustment efforts should be overcome through neglect concept contained both in several judicial decisions and separate opinion of Judge Oda. Its substance was

for the sake of equitable solution the role of the two islands as base points should be set aside (no effect) so that there should be no urgency to adjust equidistance line as maritime delimitation.

2. In context of relevant circumstances should Indonesian authority utilize geographical and non geographical factors optimally during negotiation process regarding maritime delimitation, since special/ relevant circumstances had a large ambit as reflected in several cases of maritime boundaries. Therefore in framework of negotiating maritime delimitation after Sipadan – Ligitan case, it is expected that the Indonesian authority should have a willingness and ability to utilize the opportunity with a purpose of achieving equitable solution, since it could actualize prosperity and justice for Indonesian people`as a whole in accordance with Constitution 1945.

## References

- [1] Baradina, *Pengaruh Keputusan ICJ dalam Kasus Pulau Sipadan dan Ligitan bagi Keutuhan Wilayah RI, dalam Awani Irewati, cs, Masalah Perbatasan Wilayah Laut Indonesia – Malaysia di Laut Sulawesi*, (Jakarta, Indonesian Institute of Sciences, 2006), p. 2.
- [2] J. G. Starke, *Introduction to International Law (London: Butterworths, 1984)*, Hlm. 153-154; Lihat juga Ian Brownlie, *Principles of Public International Law* (Oxford: Oxford University Press), p. 132.
- [3] Ibid., Hlm. 148-149; David H Ott, *Public International Law in the Modern World*, (London: Pitman Publishing, 1987).
- [4] J. G. Starke, *Introduction to International Law* (London: Butterworths, 1984), Hlm. 153-154; See also Ian Brownlie, *Principles of Public International Law* (Oxford: Oxford University Press), p. 261
- [5] Awani Irewati, *Masalah Perbatasan Wilayah Laut Indonesia-Malaysia di Laut Sulawesi*, (Jakarta, Lembaga Ilmu Pengetahuan Indonesia, 2006), p. 130.
- [6] Ibid., Hlm. 148-149; David H Ott, *Public International Law in the Modern World*, (London: Pitman Publishing, 1987), p.130.
- [7] Ibid, Hlm. 130. Also *Asian Economic News*, 7 Maret 2005, [http://findarticles.com/p/articles/mi\\_mOWDP/is2005\\_March\\_7/ai\\_nl1854604](http://findarticles.com/p/articles/mi_mOWDP/is2005_March_7/ai_nl1854604).
- [8] Awani Irewati, *Masalah Perbatasan Wilayah Laut Indonesia-Malaysia di Laut Sulawesi*, (Jakarta, Lembaga Ilmu Pengetahuan Indonesia, 2006), p.131.
- [9] See artikel 47 paragraph 4 of 1982 United Nations Convention on the Law of the Sea (UNCLOS)
- [10] MakJoon Nam dari Institute of Southeast Asian Studies, Singapore, in Awani Irewati, *op.cit.*, p.132.
- [11] Awani Irewati, *Masalah Perbatasan Wilayah Laut Indonesia-Malaysia di Laut Sulawesi*, (Jakarta, Lembaga Ilmu Pengetahuan Indonesia, 2006), p.132.
- [12] Victor Prescott and Clive Schofield, *The Maritime Political Boundaries of the World*, (Leiden/ Boston, Martinus Nijhoff Publishers, 2005), p.p. 451 – 452.
- [13] Bill Guerin, Sulawesi Sea Roundredges Up Defences, Asia Times Online; Border Dispute to be settled amicably; President, *The Jakarta Post*, 7 March 2005. In Awani Irewati, dkk, *op.*, *cit.*, p.134
- [14] Malaysia Ajak Indonesia Negosiasikan Perbatasan, In Daily (Kompas, 4 March 2005), p.1.

- [15] Awani Irewati, *Masalah Perbatasan Wilayah Laut Indonesia-Malaysia di Laut Sulawesi*, (Jakarta, Lembaga Ilmu Pengetahuan Indonesia, 2006), p. 135.
- [16] Clive Schofield dan I Made Andi Arsana, *Ambalat Revised: The Way Forward ?*, *The Jakarta Post*, 9 Juni 2005, p.6.
- [17] S. M. Noor, *Politik Hukum dalam Praktek Ratifikasi di Indonesia (Legal Policy in Practice of Ratification in Republic of Indonesia)*, (Makassar, Post Graduate Program of Hasanuddin University), 2008, p. 204.
- [18] Eddy Purwanto, *Manuver Malaysia di Natuna* (Kompas : 15 Maret 2012), p.6.
- [19] Sun Pyo Kim, *op.cit.*, p. 57.
- [20] S.M. Noor, *Politik Hukum dalam Praktek Ratifikasi di Indonesia*, 2008, Program Pascasarjana Universitas Hasanuddin, p.79.
- [21] 2002 ICJ Report 635
- [22] *Ibid.*, p.148-149; David H Ott, *Public International Law in the Modern World*, (London: Pitman Publishing, 1987), p.117.
- [23] Eddy Purwanto, *Manuver Malaysia di Natuna*, Daily (Kompas), 15 March, 2012, p.7.
- [24] Ian Brownlie, *'Principles of Public International Law'*, 1979, Oxford University Press, p.126.
- [25] *The Cases of Zonal and Integrated Management in International Law of the Sea*, 2008, Ashgate e-Book, University of Westminster UK, p.118.
- [26] ICJ Report 2002, paragraph 126 – 149. See Case concerning Sovereignty over Pulau Ligitan and Pulau Sipadan (Indonesia/Malaysia), See *Journal Jurisdictionary* Vol.1 Number 2 April 2005, p. xx.
- [27] Qatar vs Bahrain Case. Yoshifumi Tanaka, *Predictability and Flexibility in the Law of Maritime Delimitation*, 2006, Hart Publishing, Oxford and Portland Oregon, p.9.
- [28] Malcolm D. Evans, *Delimiting Maritim Boundaries. Relevant Circumstances and Maritim Delimitation*, Oxford monographs in International Law, Clarendon Press, Oxford, UK, 1989, p.257. *Marine Policy*, 1990, p. 538.
- [29] Malcolm D. Evans, *Relevant Circumstances and Maritime Delimitation*, *International Affairs* (Royal Institute of International Affairs (1944 :), Vol. 67, No. 1 (January 1991), pp.152 – 153. Published by : Wiley – Blackwell on behalf of the Royal Institute of International Affairs. Stable URL ; <http://www.jstor.org/stable/2621243>
- [30] Nugzar Dundua, *Delimitation of Maritim Boundaries between Adjacent States*, (United Nations – The Nippon Foundation Fellow : 2006, p. 34.
- [31] Ki Beom Lee, *The Flexibility of the Rules Applied in Maritim Boundary Delimitation*, (*Edinburgh: School of Law*, the University of Edinburgh-Background Document for 4th, 2011), P.10.
- [32] Brian H. Bix, *A Dictionary of Legal Theory*, (Oxford, New York, Oxford University Press, 2004), p. 55.
- [33] ICJ Decision Sets Stage for Maritime Boundary Delimitation in the Singapore Strait, *Ocean Development & International Law*, 40, 2009 (Taylor & Francis Group, LLC), p. 6.
- [34] *Ibid.*, Hlm. 148-149; David H Ott, *Public International Law in the Modern World*, (London: Pitman Publishing, 1987), p.117., p.p. 6 - 7.

- [35] Robert Beckman, *Moving Beyond Disputes Over Island Sovereignty: ICJ Decision Sets Stage for Maritime Boundary Delimitation in the Singapore Strait*; *Ocean Development & International Law*, 40: 1-35, 2009, Routledge (Taylor Francis Group), p.5.
- [36] Sun Pyo Kim, *Maritime Delimitation and Interim Arrangements In North East Asia*, (The Hague/London/New York, MartinusNijhoff Publishers, 2004), p.54.
- [37] Sun Pyo Kim, *Maritime Delimitation and Interim Arrangements in North East Asia*, (The Hague/London/New York, MartinusNijhoff Publishers), 2004, p. 57.
- [38] David H Ott, *Public International Law in the Modern World*, (London: Pitman Publishing, 1987), p.117., p. 133
- [39] Victor Prescott and Clive Schofield, *The Maritime Political Boundaries of the World(Second Edition)*, (Leiden/Boston, MartinusNijhoff Publishers, 2005), p. 635
- [40] Sun Pyo Kim, *Maritime Delimitation and Interim Arrangements in North East Asia*, (The Hague/London/New York, MartinusNijhoff Publishers, 2004), p.p. 103-104.
- [41] Awani Irewidkk, *Masalah Perbatasan Wilayah Laut Indonesia – Malaysia di Laut Sulawesi*, (Jakarta, Lembaga Ilmu Pengetahuan Indonesia; Pusat Penelitian Politik, 2006), p. 133 – 134.