

Ambalat Dispute Settlement Analysis Study: Juridical Review of Regional Conflict Between Indonesia and Malaysia Based on an International Law Perspective

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Abstract

The Ambalat dispute between Indonesia and Malaysia stands as a prominent example of a regional conflict rooted in territorial claims and maritime boundaries. This study conducts a comprehensive juridical review of the Ambalat dispute, focusing on the application of international law principles. Through an examination of relevant treaties, customary international law, and judicial decisions, this analysis aims to provide insights into the legal dimensions of the conflict and potential avenues for its resolution. The study begins by outlining the historical background of the Ambalat dispute, tracing the origins of conflicting claims over the maritime territory. It then proceeds to analyze the legal frameworks governing maritime boundaries, including the United Nations Convention on the Law of the Sea (UNCLOS) and customary



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international law. Special attention is given to the principles of territorial sovereignty, equitable maritime delimitation, and peaceful dispute settlement mechanisms enshrined in international law. Furthermore, the study evaluates past attempts at resolving the Ambalat dispute, including bilateral negotiations and third-party mediation efforts. By critically assessing the effectiveness of these mechanisms, the study identifies key challenges and opportunities for achieving a durable settlement. Moreover, it examines the role of international organizations and legal forums in facilitating dialogue and promoting compliance with international law. In conclusion, the study offers recommendations for policymakers and stakeholders involved in the Ambalat dispute, emphasizing the importance of adherence to international legal principles and the pursuit of peaceful resolution mechanisms. By fostering a deeper understanding of the legal complexities surrounding the conflict, this analysis seeks to contribute to the advancement of regional stability and cooperation in Southeast Asia.

KEYWORDS *Ambalat Dispute, Indonesia-Malaysia Dispute, Dispute Settlement, Maritime Boundaries Dispute*

Introduction

The Ambalat dispute between Indonesia and Malaysia represents a longstanding and complex territorial conflict with significant regional implications.¹ Situated in the Celebes Sea, the Ambalat region has been subject to overlapping claims of sovereignty and jurisdiction, leading to tensions and occasional confrontations between the two neighboring nations. This dispute underscores broader challenges related to maritime boundaries, resource extraction, and the application of international law in the Southeast Asian region.²

¹ Druce, Stephen C., and Efri Yoni Baikoeni. "Circumventing Conflict: The Indonesia–Malaysia Ambalat Block Dispute." *Contemporary conflicts in Southeast Asia: Towards a new ASEAN way of conflict management* (2016): 137-156.

² Supancana, Ida BR. "Maritime Boundary Disputes between Indonesia and Malaysia in the Area of Ambalat Block: Some Optional Scenarios for Peaceful Settlement." *Journal of East Asia and International Law* 8.1 (2015): 195-211; Hadi,

The Ambalat dispute has its roots in historical claims and competing interpretations of international law regarding territorial sovereignty and maritime jurisdiction. Both Indonesia and Malaysia assert rights over the Ambalat region based on historical narratives, geographical proximity, and legal arguments grounded in international law principles. Central to the dispute are issues related to the delimitation of maritime boundaries, resource exploitation, and the exercise of sovereign rights within the contested area.³

The legal framework governing territorial disputes and maritime boundaries is primarily based on the United Nations Convention on the Law of the Sea (UNCLOS), supplemented by customary international law principles. UNCLOS provides guidelines for the establishment of maritime zones, including territorial seas, exclusive economic zones (EEZs), and the continental shelf, as well as mechanisms for resolving disputes between neighboring states.⁴ However, the interpretation and application of UNCLOS provisions in specific cases such as the Ambalat dispute often involve complex legal arguments and require careful consideration of historical context and regional dynamics.⁵

Past efforts to resolve the Ambalat dispute have included bilateral negotiations, third-party mediation, and recourse to international legal

Syamsul. "The Dispute of Ambalat in the Perspective of Indonesian Foreign Policy in the Post-new Order Era." *Indonesian Journal of International Law* 12.1 (2014): 1-20.

³ Lutfi, Khoirur Rizal. "Legitimacy of Indonesia's Claim over Ambalat Block (Perspective of International Law)." *Khazanah* 3.1 (2010): 11-29. See also Pertiwi, Ita Endah. *Konflik Indonesia-Malaysia dalam Kasus Ambalat*. Diss. Universitas Gadjah Mada, 2009; Priswari, Inti. *Analisis Sengketa Perbatasan Wilayah Kedaulatan Blok Ambalat Antara Indonesia-Malaysia Serta Upaya Penyelesaiannya*. Diss. Universitas Diponegoro, 2010.

⁴ Zou, Keyuan, and Qiang Ye. "The relationship between UNCLOS and Customary International Law: Some reflections." *Marine Policy* 154 (2023): 105691; Lando, Massimo. "Judicial uncertainties concerning territorial sea delimitation under article 15 of the United Nations Convention on the Law of the Sea." *International & Comparative Law Quarterly* 66.3 (2017): 589-623.

⁵ Haque, AKM Emdadul. *United Nations convention on the law of the sea (UNCLOS) and delimitation of maritime boundaries: A Bangladesh perspective*. Diss. Western Sydney University (Australia), 2016.

forums. While these initiatives have yielded limited progress, they highlight the importance of dialogue and cooperation in addressing contentious territorial issues.⁶ Moreover, they underscore the role of international law as a framework for dispute resolution and the promotion of peaceful coexistence among states.

In the further context, a dispute arises when two or more parties encounter differences in opinion, interests, or claims that resist direct or amicable resolution.⁷ These conflicts can manifest across various domains,

⁶ Warsito, Tulus, Ali Maksum, and Ratih Herningtyas. "Indonesia's Foreign Policy Towards Malaysia in the Post Soeharto Era: A Case Study of Ambalat Dispute." *Revista UNISCI* 53 (2020); Bustami, Reevany, and Ali Maksum. "The Domestic Politics and Indonesia's Tension with Malaysia on The Ambalat Case." *Jurnal Ilmu Sosial* 21.2 (2022): 98-125.

⁷ Druce, Stephen C., and Efri Yoni Baikoeni. "Circumventing Conflict: The Indonesia–Malaysia Ambalat Block Dispute." *Contemporary conflicts in Southeast Asia: Towards a new ASEAN way of conflict management* (2016): 137-156. Furthermore, it is emphasized that in the Ambalat case, a dispute has arisen between Indonesia and Malaysia due to differences in opinion, interests, or claims regarding the boundaries of the sea area surrounding the Karimata Strait and the North Natuna Sea. This disagreement centers on each country's assertion of sovereign rights over water blocks abundant in natural resources, particularly oil and gas. Despite efforts to resolve the issue through direct negotiation or amicable means, the conflicting viewpoints have persisted, leading to a prolonged and contentious dispute. This situation exemplifies the general concept of a dispute, which occurs when two or more parties encounter differences that cannot be easily resolved through direct communication or friendly discussions. In the Ambalat case, despite the shared interests and geographical proximity between Indonesia and Malaysia, the conflicting claims over maritime boundaries and resource-rich areas have led to a deadlock in negotiations. These differences in opinion and interests have created a situation where the parties involved are unable to reach a mutually acceptable solution without further intervention or formal dispute resolution mechanisms. As a result, the Ambalat case serves as a prime example of how disputes can arise when conflicting interests and claims persist despite efforts to resolve them through direct or amicable means. The Ambalat dispute underscores the complexity and sensitivity of territorial disputes, particularly in maritime regions where competing claims to valuable resources exacerbate tensions. Despite diplomatic efforts and negotiations between Indonesia and Malaysia, the core issues remain unresolved, reflecting the entrenched nature of the dispute. See Abdullah, Mohd Kamarulnizam, Abdul Rahim Anuar, and Abubakar Eby Hara. "Contesting authority discourses in

encompassing legal, business, personal relationships, political, and other spheres. Typically, disputes entail conflicts or disagreements among parties, necessitating resolution for fairness and mutual satisfaction. The process of dispute resolution encompasses diverse methods such as negotiation, mediation, arbitration, or resorting to judicial proceedings. Not all disputes denote adversarial conflicts; some can be constructively resolved, supporting the interests of all parties involved, while others may require third-party intervention or legal recourse to achieve equitable resolutions.

International disputes, specifically, entail disagreements among states or international entities spanning issues like borders, international law, trade, and human rights.⁸ Resolving such disputes entails a spectrum of mechanisms, including diplomatic negotiations, mediation, international arbitration, or adjudication through international courts. Given the sovereignty of the involved countries, resolving international disputes necessitates a profound understanding of international law and often demands a nuanced approach. Cooperation between nations becomes imperative to achieve stable and sustainable solutions in this context.

Territorial water disputes denote conflicts or disagreements between entities, such as countries or territories, concerning rights and boundaries in specific bodies of water like seas, rivers, or lakes. These disputes may stem from varying interpretations of international law, overlapping territorial claims, resource utilization, or political factors. Resolving territorial water disputes typically involves diplomatic

defining relations between Indonesia and Malaysia: A case study in the Kalimantan border areas." *Journal of International Studies* 18 (2022): 191-217; Dunan, Amri, and Hamed Mohd Adnan. "Is Malaysia Little Brother of Indonesia? A Framing Analysis of Ambalat Conflict." *SOSIOHUMANIKA* 7.1 (2014); Arsana, I. Made Andi. "Good Fences Make Good Neighbours: Challenges and Opportunities in Finalising Maritime Boundary Delimitation in the Malacca Strait Between Indonesia and Malaysia." *Indonesian Journal of International Law* 12.1 (2014): 21-48.

⁸ Pitts, Jennifer. *Boundaries of the international: law and empire*. Harvard University Press, 2018; Kahler, Miles, and Barbara F. Walter, eds. *Territoriality and Conflict in an Era of Globalization*. Cambridge: Cambridge University Press, 2006.

negotiation, mediation, arbitration, or recourse to international legal processes. The resolution of such disputes holds significant implications for the relations between the involved countries or entities and is pivotal for regional or international stability and security. Examples of territorial water disputes include conflicts over oil and gas exploration rights, maritime boundaries, or the equitable use of international rivers. Successfully addressing these disputes is vital for ensuring peace and stability at the regional or global level.

The Ambalat Dispute, a contentious issue between Indonesia and Malaysia, revolves around the delineation of maritime boundaries in the Karimata Strait and the North Natuna Sea. At the heart of the disagreement lie competing claims to sovereign rights over water blocks abundant in valuable natural resources, particularly oil and gas. Tensions surrounding the dispute have simmered since the mid-2000s, driven by conflicting perspectives on maritime jurisdiction in the region. In response, diplomatic channels and negotiation efforts have been actively pursued in pursuit of a peaceful resolution.⁹

This conflict underscores the intricate nature of maritime border disputes in Southeast Asia, where nations vie for control over resource-rich maritime territories. Resolving such disputes typically involves diplomatic maneuvers, mediation, or recourse to international legal frameworks to foster a mutually acceptable agreement. In navigating dispute settlements, international law assumes a pivotal role, serving as a guiding principle for resolving conflicts between states. It is recognized that disputes, under international law, hold significance only if their resolution impacts the relationships between the involved parties.

In addition, utilizing legal bases, principles, and court jurisdiction in dispute resolution plays a pivotal role, particularly in the realm of international conflict resolution. These elements collectively form a robust framework that ensures clarity, reliability, and legitimacy throughout the settlement process. Legal bases establish a firm foundation, offering a

⁹ Huang, Kwei-Bo. "The transformation of ASEAN as a third-party mediator in intra-regional disputes of Southeast Asia." *Conflict Management, Security and Intervention in East Asia*. Routledge, 2008. 163-180' Amer, Ramses. "Expanding ASEAN's conflict management framework in Southeast Asia: The border dispute dimension." *Asian Journal of Political Science* 6.2 (1998): 33-56.

structured framework that instills confidence and predictability in the resolution proceedings. Meanwhile, principles of international law serve as guiding principles, delineating the norms and standards to be adhered to in achieving equitable outcomes.

The jurisdiction of courts or resolution bodies is essential in conferring legitimate authority to address disputes, thereby reinforcing the credibility and effectiveness of the resolution process. By adhering to these legal foundations, dispute resolution is structured to align with international norms, fostering cooperation and promoting the consideration of mutual interests among involved parties. Successful resolution of international disputes, grounded in these elements, not only yields fair outcomes but also upholds the legitimacy and endorsement of the broader international community.

Moreover, such resolutions contribute significantly to maintaining order and stability at the global level, mitigating the risk of conflicts escalating and posing threats to international peace. Consequently, the integration of legal bases, principles, and court jurisdiction becomes indispensable in facilitating orderly and peaceful resolutions of international disputes, thereby fostering a conducive environment for global harmony and cooperation.

In light of the ongoing tensions surrounding the Ambalat dispute, this study seeks to contribute to the scholarly understanding of the conflict and provide insights into potential pathways for its resolution. By conducting a comprehensive juridical review based on international law principles, the analysis aims to facilitate informed dialogue among policymakers, legal experts, and stakeholders involved in the dispute. Ultimately, the pursuit of a peaceful and equitable settlement of the Ambalat conflict is essential for promoting regional stability, fostering cooperation, and upholding the rule of law in Southeast Asia.

Against this backdrop, this study conducts a juridical review of the Ambalat dispute, focusing on its legal dimensions from an international law perspective. By examining relevant treaties, customary international law, and judicial decisions, this analysis aims to provide a comprehensive understanding of the legal principles and mechanisms governing territorial disputes and maritime boundaries. Furthermore, it seeks to assess past

attempts at resolving the Ambalat conflict and identify potential pathways for achieving a peaceful and sustainable settlement.

The research methodology adopted for this study on the Ambalat dispute is instrumental in dissecting the intricate legal dimensions of the territorial conflict between Indonesia and Malaysia. Utilizing an analytical framework, the study navigates through a systematic process that includes problem definition, literature review, and data collection, enabling a comprehensive understanding of the underlying legal principles at play. By delving into the provisions of the 1982 United Nations Convention on the Law of the Sea (UNCLOS) and other relevant legal materials, the methodology allows for a meticulous examination of the competing territorial claims over the Ambalat Block.

Through the rigorous analysis of international law regulations and authoritative legal sources, the study seeks to elucidate the complexities surrounding the Ambalat dispute. By grounding its research methodology in normative approaches and secondary data collection, the study aims to provide insights that are not only robust but also relevant to addressing the core issues of contention between Indonesia and Malaysia. As the analysis unfolds, the application of this methodology offers a structured pathway towards uncovering the legal intricacies of the Ambalat dispute, thereby contributing to a deeper understanding of the conflict and informing potential avenues for resolution.

Legal Basis and Principles and Jurisdiction of Courts in the Settlement of Sea Area Disputes

In the source of international law is a discussion or discussion related to identifying aspects of international law, both substantial and formal. In general, international jurists are more likely to identify international law in formal terms, or what is often known as the source of formal law. In other words, the term "*source of international law*" basically refers to a source of law that has formal characteristics.¹⁰ This view is

¹⁰ Thirlway, Hugh. *The sources of international law*. Oxford University Press, 2019; Besson, Samantha. "Theorizing the sources of international law." *The philosophy of international law* (2010): 163-185; Cohen, Harlan Grant. "Finding International Law: Rethinking the Doctrine of Sources." *Iowa Law Review* 93.1 (2007).

closely related to the strong influence of positivism in the field of international law. In the understanding of positivism, law is considered as a regulation made and recognized by the state. This perspective has an important role in classical international law, where states are considered the main subjects in international law and one of the consequences is that international law is based on the consent and will of states.

Indeed, international law is based on the prerequisite that there is an international community governed by a legal order. In other words, before we can recognize or, more precisely, before we can consider the existence of international law, we must first demonstrate the existence of an international community as the sociological basis of the field of law, which is the legal framework that governs the life of the international community.¹¹

The structure of international law at the level of an unorganized society has the following features: first, it is universal, which means that international law applies worldwide; secondly, it is exclusive, which means that, regardless of the degree of integration, international law remains in force as law, and its legal subjects are state entities having international legal status and individuals in accordance with existing treaties; and third, it is individualistic, meaning that states are bound only by fundamental principles of international law and common law principles recognized by the civilized international community.

Common law principles are universal and high ethical and moral values that have permeated human societies around the world, influencing legal norms and other legal rules that bind the international community. Common law principles essentially reflect the incarnation or expression of national and international positive law that varies between states and between past and present.¹² Includes a number of important functions, namely:

¹¹ Danilenko, Gennadiĭ Mikhaĭlovich. *Law-making in the International Community*. Vol. 15. Brill, 2024; Lauterpacht, Hersch. *The function of law in the international community*. OUP Oxford, 2011.

¹² Joyner, Christopher C. *International law in the 21st century: rules for global governance*. Rowman & Littlefield, 2005. See also Shelton, Dinah. "Normative hierarchy in international law." *American Journal of International Law* 100.2 (2006): 291-323.

- 1) Legal Foundation: Common law principles form the legal basis used by courts and parties involved in legal cases at the international and national levels. They provide a broad legal framework for assessing and resolving disputes.
- 2) Maintenance of Uniformity: Common law principles help maintain uniformity in the legal system, both at the national and international levels. It prevents the emergence of confusion and legal conflicts by providing universally accepted guidelines.
- 3) Protection of Human Rights: Common law principles often reflect the human rights and ethical principles underlying the legal system. It plays an important role in protecting the rights of individuals and groups in society.
- 4) Forming Customary Law: Common law principles support the establishment of customary international law. When countries consistently apply these principles, they can become binding customary laws.
- 5) Treaty Basis: Common law principles are often used as a basis in international treaties. They help formulate provisions and clauses in agreements in accordance with broader legal standards.
- 6) Dispute Resolution: Common law principles are used in dispute resolution, both at national and international levels. They help courts and mediators to reach fair and legal decisions.

Legal principles or principles refer to the principles that form the basis of all legal systems around the world. This applies not only to international law, but also includes procedural law, civil law, criminal law, environmental law, and a number of other areas of law encountered in practice in various countries.

Handling sea area disputes requires a legal basis, legal principles, and court jurisdiction to provide a structured framework. This legal basis, especially within UNCLOS, provides the norms necessary to address issues of maritime boundaries, exploration rights, and utilization of marine resources. The principles of international law, such as justice and peace, guide the formulation of just solutions for all parties involved. The jurisdiction of the tribunal, whether it is the International Court of Justice, arbitration tribunal, or any other international court body, is crucial to establishing a strong legal foundation in resolving disputes and ensuring

compliance with applicable international legal norms. Thus, the existence of legal basis, legal principles, and judicial jurisdiction are key aspects in handling sea area disputes.¹³

The legal basis for dealing with sea territorial disputes derives from the principles of international law, especially those stipulated in the United Nations Convention on the Law of the Sea (UNCLOS). UNCLOS, effective since 1994, provides a comprehensive legal framework to regulate the management and use of the ocean and its resources. Here are some relevant legal bases for the settlement of sea area disputes:

1. UNCLOS (United Nations Convention on the Law of the Sea): UNCLOS is an international treaty that establishes legal rules and principles related to the governance of sea areas, the limitation of sea areas, the rights and responsibilities of states at sea, and the rights and obligations of other entities in sea areas. UNCLOS includes zones such as the exclusive economic zone, the high seas, and the continental shelf.
2. Principles of International Law: In addition to UNCLOS, the general principles of international law are also the basis for the settlement of maritime territorial disputes. Principles such as justice, public order, and principles of international peace guide conflict solutions.
3. International Court of Justice decisions: Decisions from international courts, including the International Court of Justice (ICJ) and arbitration tribunals, can also be a legal basis for dealing with maritime territorial disputes. These decisions create legal principles that have the potential to affect the resolution of similar disputes in the future.
4. Bilateral or Multilateral Agreements: Countries involved in sea area disputes can reach settlements through bilateral or multilateral agreements. Such agreements may include specific regulations setting out rights and responsibilities related to marine areas.
5. Additional Agreements and Protocols: In addition to UNCLOS, there are additional treaties and protocols that can regulate certain aspects

¹³ Bergesen, Helge Ole, Georg Parmann, and Øystein B. Thommessen. "United Nations Convention on the Law of the Sea (UNCLOS)." *Yearbook of International Co-operation on Environment and Development*. Routledge, 2018. 113-117.

of sea area disputes. It can also be the legal basis for dealing with such conflicts.

Although the application of this legal basis may vary according to the nature of the dispute, in general, UNCLOS is often the main foundation for resolving sea area disputes at the international level. The international legal system recognizes common law principles as one of the sources of international law, in addition to international treaties and customary international law. UNCLOS stands for United Nations Convention on the Law of the Sea. It is an international treaty that governs various aspects of law related to the sea, including the boundaries of national jurisdiction in the sea, the rights and responsibilities of coastal states, the right of peaceful passage through international waters, the management of marine resources, the protection of the marine environment, scientific research at sea, and dispute resolution.¹⁴

UNCLOS was approved in 1982 and entered into force in 1994 after adequate support from member states. UNCLOS replaced the 1958 Geneva Convention on the High Seas and the 1960 Geneva Convention on High Waters, and developed a more comprehensive legal framework to address a wide range of sea-related issues. UNCLOS has an important role in establishing the boundaries of ocean jurisdiction between countries, regulating the exploitation and preservation of marine resources, and creating a legal framework to protect the marine environment.

This treaty provides a legal basis for countries to define their exclusive economic zones (EEZs), offshore rights, and other rights related to the utilization of the seas and high seas.¹⁵ UNCLOS or United Nations Convention on the Law of the Sea is an international treaty that includes a number of chapters and annexes that regulate various aspects of the law of the sea. The following is a summary of the main content from UNCLOS:

¹⁴ Scovazzi, Tullio. "The Assumption that the United Nations Convention on the Law of the Sea is the legal framework for all activities taking place in the sea." *Ocean Sustainability in the Twenty-First* (2015): 232-248.

¹⁵ Juda, Lawrence. "The exclusive economic zone: Compatibility of national claims and the UN convention on the law of the sea." *Ocean Development & International Law* 16.1 (1986): 1-58.

1. Part I: Introduction, Articles 1-3: Affirms the objectives of UNCLOS, including promoting peace, justice, and international cooperation.
2. Part II: Offshore Zones and Exclusive Economic Zones (EEZs), Articles 55-75: Define the rights and responsibilities of coastal states in relation to the management and utilization of resources in their EEZs.
3. Part III: Territorial Seas and Zones of Interest, Articles 2-32: Define territorial sea boundaries, rights of peaceful passage, and rights of navigation.
4. Part IV: Area, Articles 133-191: Regulate the management and utilization of resources in Areas, i.e. areas of the international seabed outside national jurisdiction
5. Part V: Right of Navigation and Transit Passage, Articles 37-44: Describes the right of peaceful passage and the right of flight over the sea.
6. Part VI: Utilization and Conservation of Marine Living Resources, Articles 61-75: Regulate the responsibilities of States related to the management and preservation of marine living resources.
7. Part VII: Scientific Research at Sea, Articles 88-115: Establish the legal basis for scientific research at sea and the exchange of scientific information.
8. Part VIII: Marine Environment Management, Articles 192-237: States the obligation to protect and conserve the marine environment and respond to adverse impacts of the marine environment.
9. Part IX: Conservation of Marine Living Resources in the Area, Articles 238-265: Establishes the obligation to involve international organizations in the conservation and management of resources in the Area.
10. Part X: Management of Biological Resources in EEZs, Articles 61-75: Describes the rights and obligations of coastal States in relation to the management and utilization of biological resources in EEZs.
11. Part XI: International Organization of Authorities, Articles 156-191: Establish the International Authority of the Sea as the body responsible for the management and utilization of the Area.
12. Sections XII-XIV: Dispute Resolution, Implementing Rules and Amendments, Provide the framework for dispute resolution,

implementing rules, and procedures for amendments or amendments to UNCLOS.

UNCLOS also includes a number of annexes that provide additional detail, including regarding territorial sea boundaries, offshore zones, and other technical regulations. UNCLOS has a central role in international law of the sea, providing a comprehensive legal foundation for regulating the use and management of marine resources and addressing marine environmental issues.

In dispute resolution there is also the need for principles, the understanding of principles is as fundamental guidelines, beliefs, or rules that are used as a basis for making decisions or acting in various situations, be it in ethics, science, business, or everyday life. These principles play a role in guiding individuals or organizations to direct their actions and live life or business with consistency, integrity, and clear purpose. These principles assist individuals and organizations in making decisions that are in line with their values and goals as well as to achieve desired results in various aspects of life.¹⁶

In the context of the law of sea area disputes, there are several basic principles that guide the resolution of disputes between States regarding the boundaries of maritime jurisdiction and the use of marine resources. These principles include the principle of geographical unity that recognizes the influence of geographic location and territorial unity, the principle of justice that promotes a fair settlement, and the principle of permanence that emphasizes shared responsibility in safeguarding the marine environment. The principle of fair use emphasizes the importance of wise use of marine resources, while the principle of shoreline continuity considers the distance of coastlines in determining marine rights.¹⁷

The principle of freedom of navigation guarantees freedom of sea and air passage in international waters, and the principle of a common exploration approach proposes cooperation in the use of marine

¹⁶ Boyle, Alan E. "Dispute settlement and the Law of the Sea Convention: problems of fragmentation and jurisdiction." *International & Comparative Law Quarterly* 46.1 (1997): 37-54; Karaman, Igor V. *Dispute Resolution in the Law of the Sea*. Vol. 72. Martinus Nijhoff Publishers, 2012.

¹⁷ Boyle, "Dispute settlement and the Law of the Sea Convention: problems of fragmentation and jurisdiction."

resources.¹⁸ The principle of non-recognition of the results of force reflects the rejection of the actions of one party that are incompatible with international law. The principle of peaceful settlement encourages peaceful solutions through negotiation, mediation, arbitration, or settlement of international law. Finally, the principle of harmony with international law confirms that the solution of maritime territorial disputes must be in accordance with the provisions of UNCLOS and other principles of international law. These principles aim to create a fair, sustainable and peaceful legal framework for dealing with maritime territorial disputes, providing guidance for States to define maritime boundaries and use marine resources wisely.

In maritime disputes governed by UNCLOS (United Nations Convention on the Law of the Sea), fundamental principles serve as guiding frameworks for resolving conflicts between states concerning maritime jurisdictional boundaries and the utilization of marine resources.¹⁹ These principles include:

1. Principle of Geographical Unity: Recognizes that the geographical layout and unity of a country's geographical area can affect the delimitation of maritime boundaries.
2. Principle of Equity: Promote a fair settlement based on the needs and common interests of the countries involved in the dispute.
3. Principle of Stewardship: Emphasizes shared responsibility to protect and safeguard the marine environment and prevent excessive damage to marine resources.
4. Principle of Reasonable Utilization: States should use and utilize marine resources wisely, taking into account the rights and obligations of each state.
5. Principle of Coastal Proximity: Takes into account the distance between a country's coastline and its maritime boundaries in

¹⁸ Rothwell, Donald R., and WS Walter Samuel Grono Bateman, eds. *Navigational rights and freedoms, and the new law of the sea*. Vol. 35. Martinus Nijhoff Publishers, 2000. See also Lapidot, Ruth. "Freedom of Navigation and the New Law of the Sea." *Israel Law Review* 10.4 (1975): 456-502.

¹⁹ See Shearer, Ivan. "The limits of maritime jurisdiction." *The limits of maritime jurisdiction*. Brill Nijhoff, 2014. 49-63; Blake, Gerald Henry, ed. *Maritime boundaries and ocean resources*. Rowman & Littlefield, 1987.

determining rights such as offshore zones and exclusive economic zones.

6. Principle of Freedom of Navigation: Guarantees freedom of sea and air passage in international waters in accordance with the principle of freedom of navigation.
7. Principle of Joint Development: Proposes cooperation between countries in the exploration and utilization of resources in areas that may be in dispute.
8. Principle of Non-Recognition of Unilateral Acts: Restricts recognition of unilateral acts that are inconsistent with international law.
9. Principles of Peaceful Settlement: Encourage the resolution of disputes through peaceful means, such as negotiation, mediation, arbitration, or settlement of international law.
10. Principle of Consistency with International Law: States that the resolution of maritime disputes shall be consistent with the provisions of UNCLOS and other principles of international law.

These principles are designed to create a fair, sustainable, and peaceful legal framework for dealing with maritime territorial disputes, providing guidance for states to define maritime boundaries and use marine resources wisely. Furthermore, the jurisdiction of the tribunal adjudicating sea area disputes, the settlement of sea area disputes involves various principles of international law, especially those regulated by UNCLOS. A number of institutions such as the ICJ and ITLOS, as well as methods such as arbitration, negotiation, and mediation, are used to handle such disputes.

The jurisdiction of a court or institution usually requires the voluntary consent of the parties to the dispute. Principles such as justice, co-management, and prudent use are the cornerstones of resolving maritime territorial disputes. Negotiation and mediation often take precedence over reaching an amicable agreement, while courts are an option when disputes cannot be resolved through these means. UNCLOS provides comprehensive guidance, affirming the importance of international cooperation, conservation of marine resources, and protection of the marine environment.

In the realm of resolving marine territorial disputes, the application of fundamental principles, particularly under the United Nations

Convention on the Law of the Sea (UNCLOS), serves as a cornerstone for fostering a just, sustainable, and peaceful legal framework. These principles offer essential guidance to states in delineating maritime boundaries and responsibly managing marine resources. The jurisdiction of tribunals tasked with adjudicating sea area disputes may vary, contingent upon the parties' agreement and adherence to pertinent principles of international law. Various forums and institutions, commonly involved in the resolution of such disputes, align their procedures with the tenets enshrined in UNCLOS and other relevant international legal conventions.²⁰ Here are indicative examples:

1. International Court of Justice (ICJ): The ICJ is the principal court of the United Nations that can handle disputes between states, including those related to sea areas. However, the presence of the ICJ requires voluntary consent from all parties involved.²¹
2. International Tribunal for the Law of the Sea (ITLOS): ITLOS is a specialized institution under UNCLOS to resolve disputes related to the interpretation or application of UNCLOS. ITLOS has mandatory jurisdiction in certain types of disputes, such as those related to maritime boundaries and freedom of navigation.²²
3. Arbitration: Parties to disputes within a sea area may elect to resolve the dispute through arbitration proceedings, either under UNCLOS or a separate treaty.²³

²⁰ See also Charney, Jonathan I. "Progress in international maritime boundary delimitation law." *American Journal of International Law* 88.2 (1994): 227-256; Butcher, John G. "The International Court of Justice and the territorial dispute between Indonesia and Malaysia in the Sulawesi Sea." *Contemporary Southeast Asia: A Journal of International and Strategic Affairs* 35.2 (2013): 235-257; Sari, Ayumi Kartika. "Implications of International Law for Settlement of Maritime Border Disputes." *Fox Justi: Jurnal Ilmu Hukum* 14.02 (2024): 113-117.

²¹ See Amr, Mohamed Sameh M. *The role of the International Court of Justice as the principal judicial organ of the United Nations*. Vol. 40. Brill, 2021.

²² Varayudej, Same. "The Dispute Settlement System within the UNCLOS." *Maritime Studies* 1997.95 (1997): 19-26; Gautier, Philippe. "The ITLOS Experience in Dispute Resolution." *The Future of Ocean Governance and Capacity Development*. Brill Nijhoff, 2019. 181-188.

²³ Goldberg, Stephen B., et al. *Dispute resolution: Negotiation, mediation, arbitration, and other processes*. Aspen Publishing, 2020.

4. Negotiation and Mediation: Some sea area disputes can be resolved through negotiation or mediation, without involving a special judicial forum. Negotiation and mediation is a peaceful approach in which the parties to the dispute work together to reach an agreement.²⁴
5. Regional or Bipartite Institutions: A number of marine areas have special institutions or forums devoted to resolving disputes regionally or between two countries. Examples include the Baltic Sea Commission for Dispute Settlement.

In the settlement of sea area disputes, the existence of legal basis, legal principles, and court jurisdiction is crucial. The legal basis, as represented by UNCLOS, provides a comprehensive and clear framework for regulating interactions in marine areas. Legal principles, such as fairness and freedom of navigation, guide dispute resolution to conform to international legal norms.

The jurisdiction of courts, such as the ICJ and ITLOS, offers a formal forum for handling disputes objectively and fairly, avoiding potential uncertainties or conflicts that could arise from non-uniform interpretations. It also ensures that the dispute resolution process is based on law and justice, not on political power or dominance.

In addition, the existence of legal bases and principles of international law helps maintain legal certainty, encourage environmental protection and sustainable management of marine resources, and motivate international cooperation. The settlement of marine area disputes based on these principles has the primary objective of creating just, peaceful, and sustainable solutions. Thus, involving the legal basis, legal principles, and jurisdiction of courts in the settlement of maritime territorial disputes is not only a legal imperative, but also an essential step in achieving an effective settlement and respect for international legal norms.

Indonesia's Legal Responses to Malaysia's Claims Regarding the Ambalat Border

In the face of demands for the Ambalat border from Malaysia, Indonesia has taken a number of legal steps to deal with the dispute. These

²⁴ Goldberg, et.al

measures include diplomatic efforts through bilateral negotiations and consultations, referring to international law such as UNCLOS, and possible participation in international mediation or arbitration. In addition, consultations with international organizations and public communication are used to support national positions, while the preparation of strong evidence and documentation becomes integral in supporting claims. Military monitoring and response, while not always desirable, can be an option as a deterrent or defensive measure.²⁵

These measures reflect efforts to reach a peaceful, just, and compliant settlement with the norms of international law, although the process may take a considerable amount of time. The settlement of maritime border disputes, including those related to Ambalat, may refer to the provisions of UNCLOS 1982. This settlement process encourages disputing countries to use bilateral negotiations and consultations as a first step, in accordance with Articles 33 and 74 of UNCLOS which emphasize peaceful settlements.

UNCLOS also provides options for dispute resolution through obligatory procedures, including through arbitration or international tribunals, as provided for in Articles 287 and 298. States may elect to take disputes to the International Tribunal for the Law of the Sea (ITLOS), established by UNCLOS to deal with disputes involving the interpretation or application of this convention. In addition, UNCLOS provides a legal framework for defining maritime boundaries and maritime areas, including the principles of justice and fair use. This dispute resolution process aims to achieve a fair and balanced outcome. UNCLOS also emphasizes the principles of protection of the marine environment and biological resources. The states involved can choose the dispute resolution mechanism they deem appropriate to them, and this process puts forward the principles of international law, justice, and peace.

The settlement of sea area disputes according to UNCLOS has the aim of reaching an agreement that respects international norms and balances interests. When Indonesia and Malaysia faced a border dispute over the Ambalat region, various legal actions were taken to address the

²⁵ Valencia, Mark J., and Nazery Khalid. "The Sulawesi Sea situation: Stage for tension or storm in a teacup." *The Asia-Pacific Journal* (2009).

situation. Please note that this information covers my knowledge period until January 2022, and changes to situations or policies thereafter may not be listed here. Here are some steps generally taken by countries in response to border demands:

1. **Negotiation Diplomacy:** The first step generally taken is to try to resolve disputes through diplomatic negotiations. This process involves dialogue between representatives of the two countries to reach an agreement acceptable to both sides.
2. **Bilateral Consultations:** The governments of Indonesia and Malaysia may conduct bilateral consultations to discuss border disputes, review each other's claims, and seek mutual solutions. This reflects the constant efforts in diplomacy and dialogue.
3. **International Law:** States involved may refer to international law, including provisions of UNCLOS (United Nations Convention on the Law of the Sea), as a guideline for determining maritime boundaries and maritime jurisdiction.
4. **International Mediation or Arbitration:** The States involved may agree to participate in international mediation or arbitration proceedings. This step involves determination by an independent third party and can be a way to resolve disputes and reach a binding decision.
5. **Consultation with International Organizations:** States in dispute may seek support and advice from international organizations such as the United Nations (United Nations) or international legal institutions to obtain independent views and assistance in resolving disputes.
6. **Public Communication:** The government can conduct public communication to explain its national position and gain domestic support. This can involve delivering information transparently to the public and the media.
7. **Evidence Collection and Documentation:** States involved in territorial disputes tend to compile strong evidence and documentation to support their claims. This can include historical evidence, geographical evidence, and scientific data.
8. **Military Monitoring and Response:** While not always desirable, countries can monitor and provide a military response as a deterrent or defensive measure if the situation worsens.

These steps are often combined and take a long time to reach a final agreement. Such efforts reflect a determination to seek a solution that is peaceful, just, and in accordance with the norms of international law. However, the right of sovereignty over Ambalat remains unclear, and there is no agreed maritime boundary dividing authority between Indonesia and Malaysia. Exploration of marine resources on the Sulawesi Sea continental shelf (seabed) has been ongoing since the 1960s with the Indonesian government granting concessions to foreign companies. Malaysia did not lodge an outright protest against this exploration until 2002.

Meanwhile, Malaysia also claimed certain areas in the Sulawesi Sea through the 1979 Map, but the map was not only protested by Indonesia, but also from neighboring countries and the international community. Indonesia's claims, embodied in the form of concession blocks since the 1960s, and Malaysia's claims are important considerations in the maritime delimitation process in the Sulawesi Sea. This is done not only with reference to the recently adopted UNCLOS. For Indonesia, the boundaries of concession blocs that have existed since the 1960s and have not received direct opposition from Malaysia are the main reference in determining maritime boundaries in the Sulawesi Sea.

On the other hand, as the rightful owner of Sipadan and Ligitan, Malaysia can take advantage of the position of the two islands. Although Malaysia does not have the status of an archipelagic country like Indonesia, conceptually, Sipadan and Ligitan still have rights to maritime areas, in accordance with Article 121 of UNCLOS. However, there is still the potential that Indonesia will refuse to grant full rights to the two islands, so the impact on Malaysia's claims is not very significant. It is possible that Indonesia will argue that small islands such as Sipadan and Ligitan should not have a disproportionate impact on the maritime boundary between Indonesia and Malaysia, a view that has been recognized in modern international law. In the context of negotiations, this is very important and must be considered by the Indonesian team.²⁶

²⁶ Ong, David M. "International Court of Justice Case Between Indonesia and Malaysia Concerning Sovereignty Over Pulau Ligitan and Pulau Sipadan." *The International Journal of Marine and Coastal Law* 14.3 (1999): 399-414; Maydhina, Ratna. "The Dispute Case of Sipadan Island and Ligitan Island by Countries of

In resolving the dispute between Indonesia and Malaysia, both chose to start with the method of negotiation or diplomatic talks. This can be seen from a series of meetings that have been conducted by representatives of the two countries. To resolve this dispute, Indonesia and Malaysia agreed to use a negotiation approach that began in 2005 and continued until October 2009. Until now, one of the concrete outcomes of the negotiations has been Malaysia's recognition of Karang Unarang by Indonesia. Further efforts will be made to reach a boundary agreement in the Sulawesi Sea.²⁷

Conclusion

The examination of sea area disputes, particularly the Ambalat conflict, underscores the critical significance of establishing a robust legal foundation, adhering to pertinent legal principles, and determining appropriate court jurisdiction. A clear legal basis, rooted in international law such as UNCLOS, forms the cornerstone for states to uphold their rights and responsibilities in maritime zones. Legal principles, encompassing concepts like geographical unity, justice, fair use, and shoreline continuity, serve as indispensable guidelines for fostering equitable and enduring solutions. Embracing these principles not only alleviates tensions but also ensures the equitable management of marine resources, respecting the rights of all parties involved.

Central to the resolution of sea area disputes is the selection of the appropriate judicial institution or tribunal, ensuring adherence to international legal norms. Decisions rendered by impartial and objective tribunals provide a solid foundation for resolving disputes equitably and

Indonesia and Malaysia." *Journal of Global Environmental Dynamics* 2.2 (2021): 5-7.

²⁷ Hendrapati, Marcel. "Implication of the ICJ decision respecting Sipadan–Ligitan case towards base points and maritime delimitation." *International Journal of Sciences: Basic and Applied Research* 14.1 (2014): 378; Sanjaya, Jaka Bangkit. "Analisis Mengenai Kesepakatan Negara Indonesia Dalam Memutuskan Penyelesaian Kasus Sipadan Dan Ligitan Melalui Mahkamah Internasional." *Jurnal Analisis Hukum* 4.1 (2021): 98-119; Lestari, Tri Ditaharmi, and Ridwan Arifin. "Sengketa Batas Laut Indonesia Malaysia (Studi Atas Kasus Sipadan Ligitan: Perspektif Indonesia)." *Jurnal Panorama Hukum* 4.1 (2019): 1-10.

upholding the rights of each party. Thus, a successful resolution of maritime disputes necessitates a harmonious integration of a clear legal framework, the application of equitable legal principles, and the judicious selection of judicial jurisdiction. This multifaceted approach is vital for fostering peace, justice, and sustainability in marine resource management and territorial conflict resolution.

The juridical analysis of the Ambalat dispute offers profound insights into the dispute resolution efforts between Indonesia and Malaysia within the framework of international law. Observing the sovereign rights over these maritime areas, the study delineates the steps taken by both nations. Diplomatic negotiation emerges as the initial strategy employed, reflecting a cognizance of the significance of adhering to international legal pathways, notably the principles delineated in UNCLOS. Despite some progress, such as acknowledgment from Malaysia on certain aspects, the Ambalat conflict persists as an unresolved challenge. Complex geographical factors, maritime boundary uncertainties, and intricate international regulations contribute to the complexity of settlement efforts, underscoring the formidable challenges of upholding international law in territorial dispute resolution.

In conclusion, the resolution of the Ambalat conflict demands time and unwavering commitment from both Indonesia and Malaysia. Sustained dialogue and collaborative endeavors are indispensable for achieving a just and sustainable resolution, aligning with universally accepted tenets of international law.

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