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The Sulawesi Sea Situation: Stage for Tension or Storm in a Teacup?

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The Ambalat (Indonesia)/ ND6-ND7 (Malaysia) boundary dispute in the western Sulawesi Sea has resurfaced with a vengeance threatening to disturb Indonesia-Malaysia relations. The issue has high stakes because a deepening of the dispute could create instability in the region and undermine ASEAN unity. What's all the fuss about and why now?

The area has been militarized. Indonesia has six warships and three warplanes in the area while Malaysia has several navy and coast guard vessels and aircraft there. Incursions by both sides into each others claimed waters have become increasingly frequent since the beginning of this year. Malaysia put bilateral talks on hold in April 2008. Things came to a boil on May 25 when an Indonesian navy vessel reported that it was only moments away from opening fire on a Malaysian warship that had allegedly encroached on claimed Indonesian waters. Some speculate that officials in Indonesia were using the incidents to pander to the Indonesian public in the run-up to the July 8 Presidential election. The Indonesian media certainly played up the saber rattling sound bites by Indonesian officials. Indonesian Defence Minister Juwono Sudaryono said "We are undeterred. Let Malaysia send military force and launch propaganda in Ambalat ..." An international relations expert said, "I am supportive of deploying Indonesian warships to Ambalat". Weighing in on the dispute in a rather alarming tone, Vice President Jusuf Kalla said Indonesia must take action and be prepared to wage war.

July 6 protest over Ambalat by the Betari Brotherhood Forum in front of the Malaysian Embassy in Jakarta

However, cooler heads prevailed. Indonesia sent a diplomatic note to soften the situation and dampen the fiery response. And in an attempt to reduce tension, six leading Indonesia legislators traveled to Malaysia to try to convince their counterparts in Malaysia of the seriousness of the problem. Moreover the Malaysian Navy Chief apologized to Indonesia for its actions there.

But why did this issue bring these two normally "brotherly" countries to this point ? What are the prevailing circumstances that have contributed to the rising temperature between Kuala Lumpur and Jakarta on this seemingly minor issue?

The Background: Conflicting Claims

Malaysia's inferred baseline, which links its territory on Sebatik Island with Pulau Sipadan does not connect islands fringing its coast nor does it enclose a coast which is deeply indented, and it deviates appreciably from the general direction of the coast. Thus to Indonesia the baseline does not appear to conform to the 1982 UN Convention on the Law of the Sea (UNCLOS) which both Malaysia and Indonesia have ratified.

Instead, Indonesia sent a diplomatic note to soften the situation and dampen the fiery response. And in an attempt to reduce tension, six leading Indonesia legislators traveled to Malaysia to try to convince their counterparts in Malaysia of the seriousness of the problem. Moreover the Malaysian Navy Chief apologized to Indonesia for its actions there.

Figure 1: Overlapping claims in Sulawesi Sea

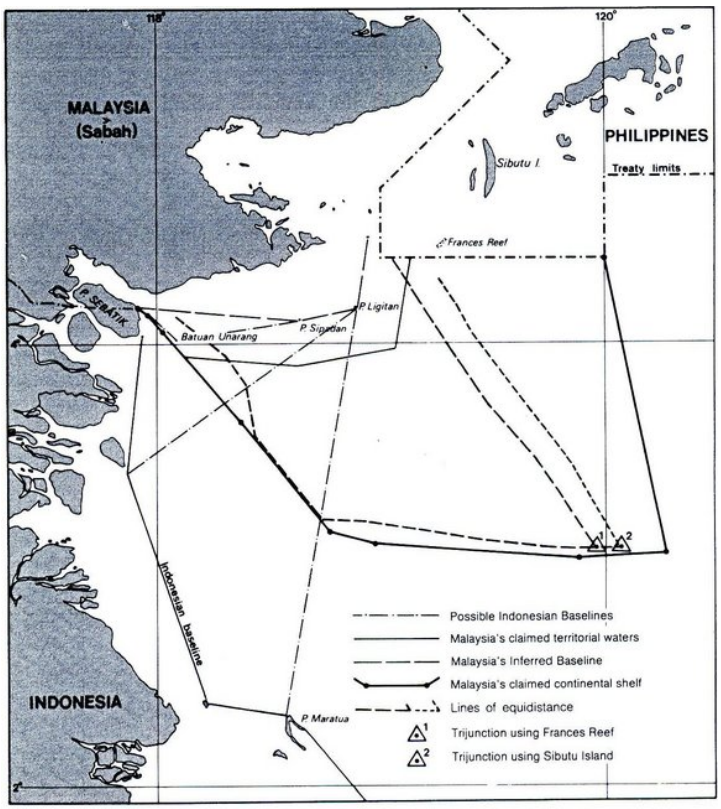


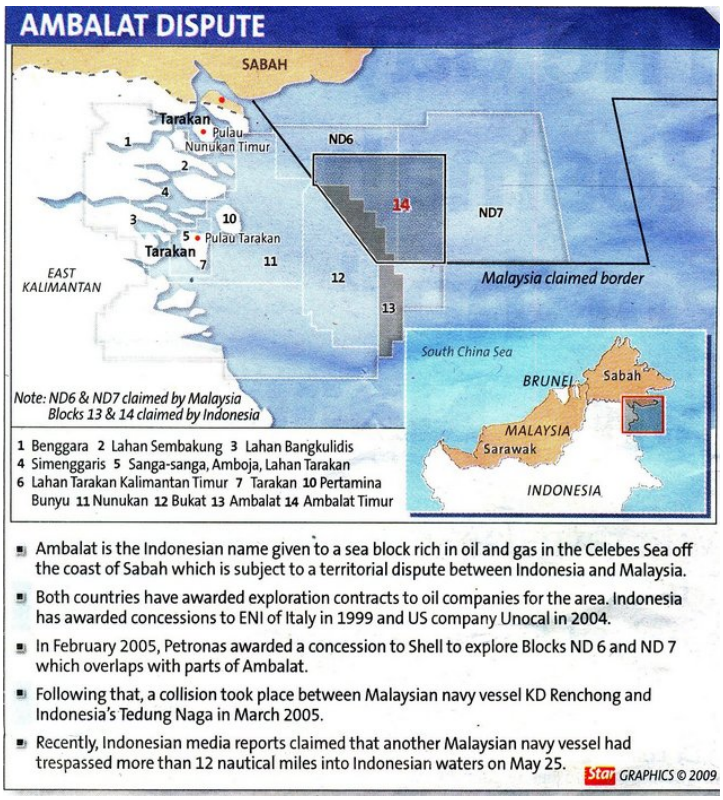
Fig 1 . Sulawesi Sea: overlapping claims
(Source: Prescott, 1981 with additions by the author)

Malaysia has unilaterally drawn the common territorial sea boundary as a line which bisects the angle formed by Indonesia's archipelagic baseline and Malaysia's inferred baseline (**see Figure 1**). Indonesia argues that such a line totally ignores Batuan Unarang, a rock whose presence entitles Indonesia to claim territorial seas. Malaysia owns the islands of Sipadan and Ligitan. But it also claims territorial seas and a section of continental shelf from these features which extend beyond a line of equidistance with Indonesia. A length of the boundary claimed by Malaysia does closely follow an equidistant course, but it extends too far to the southeast, discounting Pulau Maratua, a feature forming part of Indonesia's archipelagic baseline.

In the western margin of the sea, the Malaysian continental shelf claim encloses the edge of the onshore/offshore petroliferous Tarakan basin and cuts completely in half the closure of a two-kilometer thick offshore sediment pod extending to the southeast. Indonesia had originally leased a portion of this area that it calls Ambalat to Scepter Petroleum Ltd. Just one of the Ambalat blocks is estimated to contain as much as 764 million barrels of oil and 1.4 trillion cubic feet of gas. If Sipadan and Ligitan were ignored, an equidistance line between Indonesia's archipelagic baselines and Malaysian territory would give more of this petroliferous basin to Indonesia.

The Ambalat dispute originated in 1979, when Malaysia published its 'Peta Baru', or literally 'new map'. However, it was greatly exacerbated in 2002 when the International Court of Justice (ICJ) awarded Malaysia both Sipadan and Ligitan. The ICJ made no decision on whether the features should be able to claim maritime zones, nor on maritime boundaries. But Malaysia then used these features as base points to make further claims to territorial sea, EEZ and continental shelf. Making matters worse, in February 2005 Malaysia granted oil exploration sights to Shell Oil Company and to its national oil company Petronas in the disputed area that overlapped areas Indonesia had previously granted to ENI in 1999 and to UNOCAL in 2004(Figure 2).

<u>Figure 2</u>: The Ambalat/N6-N7 Dispute



Source: The Star

The decision of ICJ in 2002 to award sovereignty of Sipadan and Ligitan to Malaysia shocked and inflamed Indonesia national sentiment. It also affected the careers of some officials who had agreed with Malaysia to take the case to the international court on a "winner takes all" basis. For Malaysia, this was a case of 'winning the battle but losing the 'war'. The Indonesian government vowed this would never happen again and indeed it has refused to take the Sulawesi Sea issue to the Court or any third party arbitration. Given this experience and the negative public mood, Indonesia is also highly unlikely to grant any concessions to Malaysia in this or other boundary negotiations. Indeed it has insisted that the Ambalat dispute be negotiated together with other outstanding boundary disputes with Malaysia, including the EEZ North of Tanjung Datu, the third party point south of Singapore's newly won Pulau Pedra Branca, and the EEZ boundary in the Malacca Strait. This is an attempt to force Malaysia to yield on the Ambalat issue and claim only territorial seas around Sipadan and Ligitan.

The ICJ judgment came at a time when Indonesia was facing secessionist movements in West Irian and Acheh and thus poured political salt into a gaping wound in the Indonesian national psyche. Indeed this loss fueled a national paranoia regarding the erosion of unity of the nation. In the past, maritime security and its importance in foreign policy did not shine prominently on the political radar of the Jakarta elite. However, the judgment by ICJ on Sipadan and Ligitan in favor of Malaysia marked a major elevation of maritime matters among Indonesia's political class. Indonesia's perspective on Ambalat is also shaped by its archipelagic viewpoint that to quell maritime security threats coming from piracy, smuggling and potential acts of terror, it needs to better control its maritime domain. To Indonesia, the ICJ decision in favor of Malaysia on grounds of 'continued exercise of authority' over the islands was particularly difficult to accept as they are located south of what Jakarta considers its baseline for determining its maritime boundary with Malaysia. The 'loss' of Sipadan and Ligitan was a painful reminder to Indonesia of the heavy price to pay for not attending closely to maritime issues. Indonesia's determination not to repeat the bitter lesson of Sipadan and Ligitan is arguably reflected in is conduct regarding the Ambalat dispute.

The intensity of the Ambalat dispute belies the otherwise close practical cooperation between Malaysia and Indonesia in the maritime realm. Both nations have been engaged in bilateral coordinated naval patrols called MALINDO to secure the Straits of Malacca from trans-national threats such as piracy. Both also participate in trilateral patrols with Singapore called MALSINDO. There are also increasing communications between maritime coordination centers on the Indonesia side at Belawan and Batam, and Malaysia's in the naval town of Lumut. Both countries, along with Singapore, have announced the formation of a ministerial level tripartite forum to discuss and improve maritime security in the Strait of Malacca. Given this history and degree of cooperation, and the close socio-economic and cultural ties between the two countries, it is deeply regrettable that they have come to loggerheads over this boundary dispute.

The way forward: towards amicable settlement of the dispute

Where do Indonesia and Malaysia go from here? For the time being, Malaysia has proposed that patrols be suspended to avoid further incidents, while Indonesia has proposed joint patrols of the area, also urging Malaysian vessels and aircraft not to come too near its claimed area. This will have to be sorted out at the next negotiating session between Kuala Lumpur and Jakarta in July 2009. They might also change their patrols from those being conducted by the military to the Coast Guard or marine police to try to avoid conflict. Meanwhile the two neighbors and long term friends should abide by their Incidents at Sea Agreement (INCSEA) which states that their warships and military aircraft should avoid the use or threat of force against one another. It also provides standard safety procedures when encountering each other's ships and aircraft. Calls by both sides to refrain from provocation and to observe the rules of engagement should be heeded to prevent exacerbating the dispute.

Ultimately there may be room for a co-operative solution like joint development, as practiced between Malaysia and Thailand in the Gulf of Thailand, although given the recent history the sharing may have to be largely in Indonesia's favor. Until such a solution is implemented, it is hoped that this seemingly small issue will not disturb Malaysia-Indonesia relations and peace in Southeast Asia. The relationship between the two is too close and precious to be soured over this issue. Hence both parties must work hard to contain the dispute and settle it amicably for the sake of preserving bilateral ties and regional stability.

To this end, the recent conciliatory tones coming from Jakarta and Kuala Lumpur to defuse tensions over Ambalat give hope that good sense and cool heads will prevail between the parties. This augurs well towards mending the strained ties over the issue and

returning them to a more stable course that befits the exceptionally cordial relationship between their highest political echelons – despite the historical baggage between them and occasional bluster over issues such as illegal immigrants and abuse of maids – and the close socio-economic and cultural ties between their peoples. However, Malaysia and Indonesia will have to work hard to quickly repair damaged relations lest they fester. Even the closest of ties can easily break if they are continuously stretched.

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