A Historical Survey of Indonesia’s Maritime Boundary Agreements

I Made Andi Arsana, Ph.D
Department of Geodetic Engineering
Universitas Gadjah Mada

Jointly organised by:
Castan Centre for Human Rights,
the School of Social Sciences at Monash University
&
Swinburne University of Technology

Symposium on Maritime Boundaries in the Timor Sea: Perspectives in International Law
Melbourne, 15 February 2016
• Indonesia and the Law of the Sea
• Maritime zone of jurisdiction and delimitation
• Indonesia and its ten neighbours
• Settled and pending maritime boundaries
• Indonesia-Australia and Indonesia-Timor Leste Maritime boundaries
• Concluding Remarks
Indonesia and the Law of the Sea
Maritime Zone of Jurisdiction pursuant to UNCLOS

Locally Rooted, Globally Respected
Normal Baselines and Maritime Limits

Sea

Land

I Made Andi Arsana (c) 2013
Straight baselines and maritime limits

Arc of Circle centered at A

X

Straight baseline

Internal Waters

Sea

Land

Animation by Arsana & Schofield, 2014
An Archipelagic State’s maritime zones pursuant to UNCLOS
Imagine, a small State in the middle of the ocean. Alone.
Principles & Methods of Maritime Boundary Delimitation

EEZ/CS boundary -adjacent- (Art 74/83 UNCLOS)

CS boundary -opposite- (Art. 83 UNCLOS)

TS boundary -adjacent- (Art. 15 UNCLOS)

Submitted to UN CLCS for recommendation

Not to scale, for illustrative purposes only

State A

State B

State C

State E

State D

ARSANO, 2013

Locally Rooted, Globally Respected
Indonesia and ten neighbours

- Archipelagic Baselines
- Territory Sea
- EEZ
- Archipelagic waters

- Unilateral Limits (no agreement with neighbours required)
- Agreed bilateral boundaries
- Indonesia's unilateral claims (agreement with neighbours required)
Java, Christmas Island and Australia

Locally Rooted, Globally Respected
I Made Andi Arsana, Ph.D
www.ugm.ac.id
Settled Maritime Boundaries
Ina-My - 1969
Ina-Viet - 2003

Only seabed, not water column!
Indonesia-Australia-Timor Leste

1700s → ‘Indonesians’ came to fish

Official claim by the British (1878)

EEZ delimitation (1997)

Seabed delimitation (Ina-Aus) 1970s

Potential lateral Boundaries (Ina-TL)

Timor Leste’s Independence (1999-2002)

Timor Sea Treaty (Ina-TP) 1999 (LAE-PT 2002)

The Timor Gap

Rote Islands

Ashmore Islands

Cartier Island

Mou Sux (1974)

traditional fishing rights

Scott Reef

Browse Island
Non coincident lines for EEZ and CS: Not unprecedented!

“... organisms which, at the harvestable stage, either are immobile on or under the seabed or are unable to move except in constant physical contact with the seabed or subsoil” (LOSC, Art. 77 (4))

EEZ Boundary (water) (signed in 1997)

For illustrative purposes only. The visualisation does not reflect the real geospatial setting of Indonesia and Australia

Locally Rooted, Globally Respected
23 May 2014

A 20 year negotiation

Two Archipelagic States

Archipelagic Baselines

Philippines

Indonesia

Only EEZ, not Continental Shelf

Locally Rooted, Globally Respected

I Made Andi Arsana, Ph.D

www.ugm.ac.id
Indonesia-Philippines

Maritime Boundary
INDONESIA-PHILIPPINES
Boundary Report 5-41

- Maritime boundary
- Equidistance line

Nautical miles (N)

©American Society of International Law, 2015

RP: 224.221.508 km²

RI: 224.368.844 km²

Locally Rooted, Globally Respected www.ugm.ac.id
Pending Maritime Boundaries
Pending EEZ boundaries where Continental Shelf boundaries exists
Pending EEZ boundaries where Continental Shelf boundaries exists

Malaysia

Indonesia

Seabed boundary (signed in 1969)

You are entering our water!

You are the one who enter our water!

For illustrative purposes only
The visualisation does not reflect the real geospatial setting of Indonesia and Malaysia

I Made Andi Arsana (c) 2013

Locally Rooted, Globally Respected
Proposing a 3D EEZ Delimitation [?]
Two different proposals & a negotiated line [?]
Indonesia and the complexity of the SCS

South China Sea

Spratly Islands

Cambodia
Vietnam
Philippines

Really?

Singapore

Malaysia
Indonesia

Sulu Sea

Analysis and Animation by I Made Andi Arsana

Locally Rooted, Globally Respected

www.ugm.ac.id
Indonesia-Timor Leste Maritime Boundaries
A matter of life or death?

Mari Alkatiri: “success or failure of maritime delimitation negotiations, especially those with Australia, is a ‘matter of life and death’ for East Timor” (Oxfam 2004)

President Xanana Gusmao: Without access to Timor Sea resources: “we will end up being just one more failed State”
Recent Development

Joint communiqué between President Joko Widodo and PM Rui Maria de Araujo

First Consultation Meeting, Dili

Second Consultation Meeting, Surabaya

First technical meeting

- Based on UNCLOS
- Exchange of basepoints and baselines
- WGS 1984 for geodetic datum
- Phases of delimitation process agreed

26 Aug 15
18 Sept 15
29-30 Oct 15
First quarter of 2016
Indonesia’s Archipelagic Baselines and zones to delimit:

Maritime zones to delimit:
1. Territorial Sea
2. EEZ
3. Continental Shelf
[...] “neither of the two States is entitled, failing agreement between them to the contrary, to extend its territorial sea beyond the median line every point of which is equidistant from the nearest points on the baselines from which the breadth of the territorial seas of each of the two States is measured.” [...]

“The delimitation of exclusive economic zone between States with opposite or adjacent coasts shall be effected by agreement on the basis of international law, as referred to in Article 38 of the Statute of the International Court of Justice, in order to achieve an equitable solution.”
The Three-stage Approach

The Black Sea Case (Romania v Ukraine), 3 Februari 2009 → ICJ
Bay of Bengal (Bangladesh v Myanmar), 14 March 2012 → ITLOS

Provisional line: equidistance

Adjusting provisional line → relevant circumstances

Test of disproportionality
1. Land boundaries have yet to be finished (98%, according to the Indonesian Ministry of Foreign Affairs, 2015)

2. How urgent?
   (resources, sovereignty or sovereign rights, non-traditional issues)

3. Is it as urgent as Australia-Timor Leste? (life or death)
Delimitation option: Indonesia v Timor Leste

Median or equidistance line with archipelagic baselines
Indonesia's archipelagic baselines
Median or equidistance line with normal baselines

Ombai Strait
Wetar Strait
P. Batek
Oecussi

Locally Rooted, Globally Respected

www.ugm.ac.id
Options for Lateral Boundaries

Legend
- Indonesia’s Archipelagic Baseline (IAB)
- Robust Equidistance Line (zero effect to IAB)
- Robust Equidistance Line (full effect to IAB)
- Half Effect to P. Leti, Moa, Lakor
- Half Effect to P. Jako
- Zero Effect to P. Jako
- Approximate East Timor claim line

Not to scale

Schofield and Arsana, 2007
Delimitation option: Indonesia v Timor Leste (RI)
Concluding Remarks

- Indonesia has ten neighbours to deal with for maritime boundary delimitation
- Settled, partially or fully, with eight neighbours
- 19 agreements, 1 yet to ratify
- All agreements by negotiation
- With Australia, all settled. Boundary administration/management follows
- With Timor Leste, no agreement yet. Negotiation is on progress.
THANK YOU