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DISPUTE SETTLEMENT IN DELIMITATION EXCLUSIVE ECONOMIC ZONE THROUGH DIPLOMACY OF STATES: WILL IT SOLVE THE UNDELIMITED? (CASE: INDONESIA AND VIETNAM)

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Abstract

International law has an aim to help international community to ensure the peace and security between states. Whenever a dispute between states arisen in any field of law, there are some choices of dispute settlement, which could be chosen by state entities to solve it, which are diplomatic methods and the adjudicative methods. As mentioned in article 3 point 1(a) of Vienna Convention 1961, the function of diplomatic mission is represent the sending state in the receiving state. The functions are not only in ceremonial attempt. Diplomatic mission also could protest and do inquiries to the receiving states if there are any dispute arisen. Same rule do applied in maritime disputes between Indonesia and Vietnam recently. Indonesian Navy patrol ship under name KRI Tjiptadi 381 was hit by two surveillance vessels owned by the Vietnam Coastguards while pursuing illegal fishing boats on the North Natuna Sea, which is defined as "undelimited" maritime boundaries between Indonesia and Vietnam on Saturday, April 27th 2019. The Indonesian Foreign Ministry then called on the Vietnamese Ambassador as the diplomacy mission of Vietnam in Jakarta to deliver a protest note against a dangerous incident in the North Natuna Sea. This article will discuss about the limitations of diplomatic mission authority in dispute settlement between states, also does the diplomacy settlement could give a better result settling the maritime boundaries dispute.

Keywords: *dispute settlement, diplomatic mission, Indonesia, Vietnam*

A. Background

Diplomacy in the 21st century is transforming and expanding from a peaceful method of inter-state relations to a general instrument of communication among globalized societies.[1] Under article 2 of 1961 Vienna Convention, the establishment of diplomatic relations between states, and of permanent diplomatic missions, takes place by mutual consent.[2]

The conflict between the Indonesian National Army Navy (*TNI-AL*) and the Vietnam Coast Guard (VCG) in the North Natuna Sea again occurred. This time it is no longer just banishing each other, but VCG cuts the direction of the KRI Tjiptadi 381 until it hits the left side of his body.[3]

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[1] Wilfried Bolewski, *Diplomacy and International Law in Globalized Relations*, 1st Ed (Heidelberg: Springer Berlin, 2007).

[2] Article 2 of Vienna Convention on Diplomatic Relations

[3] Aditya Salim, "Indonesia-Vietnam: Intrik Di Balik Konflik (1)," kompasiana, 2019, https://www.kompasiana.com/591482/5cdb79f995760e4b6c191d86/indonesia-vietnam-intrik-di-balik-konflik-1.

What appears is that each country claims to have jurisdiction in its Exclusive Economic Zone (EEZ). Vietnam believes that Indonesia often catches Vietnamese fishing vessels fishing in the Vietnam EEZ, which for Indonesia, these activities occur in the Indonesian EEZ. The recurrence of this incident is due to the incomplete process of the Indonesian and Vietnamese EEZ negotiations. Why the negotiation so protracted? In addition, is there a connection to this conflict with the negotiations? Couple days after the incident in the North Natuna Sea where the KRI Tjiptadi 381, a Navy ship, was hit by two Vietnam-owned fishing vessels while capturing an illegal fishing boat, the Foreign Ministry on Monday afternoon, April 29th 2019 summoning Ambassador, Pham Vinh Quang to submit a protest note over the incident in the North Natuna Sea.[4]

Legal Status of Warship in UNCLOS 1982 mentioned in article 29 until article 32 of the convention. In EEZ and Continental Shelf, the warship or military vessels represent the coastal state's sovereign rights to enforce the law in attempt to conserve and manage the living resources.[5] Also due to the immunity of warship, has mentioned that each State shall ensure, by the adoption of appropriate measures not impairing operations or operational capabilities of such vessels or aircraft owned or operated by it, that such vessels or aircraft act in a manner consistent, so far as is reasonable and practicable, with this Convention.[6] However, how could the collision between both government ships happen while the Indonesian warship do has the immunity as the convention mentioned?

This matter came out as the consequence of the undelimited exclusive economic zone (EEZ) between Indonesia and Vietnam. The delimitation of seabed area between both states has done since 2003, but not with the EEZ.[7] This bilateral dispute of maritime delimitation oftenly happen because of an unfinished negotiation between states to define the border. Generally known, to create a delimitation line while mapping the EEZ of a state, is way more complicated than mapping the land.

When Indonesia ratified the Vienna Convention, Indonesia exclude the Optional Protocol concerning the Compulsory Settlement of Disputes 1961, which is one of the part of Vienna Convention. The exception is because the Indonesian government prioritizes dispute resolution through negotiations or consultations between disputing countries. However, diplomatic settlement as seen in Indonesia-Vietnam case, has been dragged

[4] Eva Mazrieva, "Kemlu Panggil Duta Besar Vietnam Pasca Insiden Kapal RI Dan Vietnam," VOA, 2019, https://www.voaindonesia.com/a/kemlu-panggil-duta-besar-vietnam-pasca-insiden-kapal-ri-dan-vietnam/4896518.html.
[5] Article 73 of United Nations Convention on the Law of the Sea 1982
[6] Article 236 of United Nations Convention on the Law of the Sea 1982
[7] I Made Andi Arsana, *Perseteruan Indonesia Dengan Vietnam Di Laut China Selatan* (Indonesia: www.youtube.com, 2019), https://www.youtube.com/watch?v=7EjfGOdvC5c.

on since years ago,[8] so does delimitation EEZ dispute between Indonesia-Malaysia, etc.

B. Identified Problems

As a result of the foregoing context, the writers have limited the issues that will be covered in this study to (1) How is the limitations of diplomatic mission authority in dispute settlement between states? and (2) Does the diplomacy settlement could give a better result settling the maritime boundaries dispute?

C. Research Methods

The research method used in this study is normative juridical using a comparative legal approach. Normative legal research is a process of finding a legal rule to address a legal issue at hand.[9] This type of writing refers to a form of descriptive research that compares two or more of the same or similar situations, events, activities, programs, etc.[10] The data analyzed in this research are derived from the International Court of Justice (ICJ) rulings related to the Maritime Delimitation and Territorial Questions between Qatar vs Bahrain (2021), and compared with the ongoing issues in Indonesia concerning the Exclusive Economic Zone (EEZ) dispute with the neighboring country, Vietnam. In addition to this data, other supporting data from previous research related to the current issues are utilized.

D. Research Finding and Discussion

1. Indonesia and Vietnam Diplomacy Relations and the Delimitation Zone Dispute

Indonesia and Vietnam are the two countries in Southeast Asia that achieved their independence through revolution. Because of this com- mon historical experience, leaders of the two countries have emphasized this point from time to time. The relation between Indonesia and Vietnam has begun since ancient centuries. Has start around the 7th century on the era of Champa, Srivijaya, and later Majapahit kingdoms. While informal diplomatic relations originated in the 1940s, formal diplomatic ties was only established following the 1955 Bandung Conference. Indonesia established consulate-generals in Hanoi and Saigon on December and September of that year.[11]

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[8] Fika Nurul Ulya, "Menlu: RI-Vietnam Sepakati Batas ZEE Di Tahun 2022, Setelah 12 Tahun Berunding," Kompas.com, 2023, https://nasional.kompas.com/read/2023/01/11/15571521/menlu-ri-vietnam-sepakati-batas-zee-di-tahun-2022-setelah-12-tahun-berunding.

[9] Peter Mahmud Marzuki, *Penelitian Hukum* (Jakarta: Kencana Prenada Media Group, 2013).

[10] Nana Syaodih Sukmadinata, *Metode Penelitian Pendidikan* (Bandung: Remaja Rosdakarya, 2007).

[11] Departemen Luar Negeri, *Dua Puluh Lima Tahun Departemen Luar Negeri RI, 1945-1970* (Jakarta: Penelitian dan Pengembangan Departemen Luar Negeri, 1972).

When the Vietnam War escalated, the Indonesian élite, many of whom had been involved in the anti-colonial movement, was sympathetic to the North Vietnamese. They often con- sidered the South Vietnamese as puppets of the United States. On 10 August 1964 Soekarno finally decided to upgrade the diplomatic relations between Jakarta and Hanoi to ambassadorial level.[12][13] This led to the suspension of diplomatic ties between Jakarta and Saigon. Jakarta also closed the consulate office in Saigon.[14]

However, Indonesia under Soeharto reign was frustrated because Vietnam did not respond to its overtures, which were, in fact, quite beneficial to the Vietnamese. There was also a desire on the part of Indonesia to settle the boundary dispute with Vietnam through friendship and negotiations. Again, Jakarta made slow progress on this matter. Nevertheless, the strategic thinking appears to be in the minds of the military leaders in Indonesia.[15]

ASEAN then become the regional framework, which tighten the relations of Southeast Asian states. The legal structures of ASEAN are helpful in revealing the political arrangements that are its core.[16] Including the diplomacy relations between states of ASEAN. The relationship between Indonesia and Vietnam in determining the maritime boundaries area is then troubled when determining the delimitation EEZ.

Since the collision of the Indonesian Warship by the Vietnam Coastguard's ship, the question that appears is that each country claims to have jurisdiction in its Exclusive Economic Zone (EEZ). Vietnam believes that Indonesia often catches Vietnamese fishing vessels fishing in the Vietnam EEZ, which for Indonesia, these activities occur in the Indonesian EEZ.[17]

Based on the UNCLOS 1982, the maritime boundary of a country is determine by a baseline. From the baseline, the width of the territorial sea, EEZ, and other maritime zones is measured. Because of the importance of this line, in UNCLOS detailed the baseline determination mechanism. There are three types of baselines, namely normal baseline, straight baseline and archipelagic baseline. Its use depends on the geographical conditions of each country. Indonesia

[12] Franklin B. Weinstein, *Indonesian Foreign Policy and the Dilemma of Dependence: From Sukarno to Soeharto* (Equinox Publishing, 2007).
[13] Cao Xuan Pho, "Vietnam-Indonesia Concurrences: Past and Present," *Indonesian Quarterly* 13, no. 2 (1985): 214–21.
[14] Departemen Luar Negeri, *Dua Puluh Lima Tahun Departemen Luar Negeri RI, 1945-1970*.
[15] Leo Suryadinata, "Indonesia-Vietnam Relations Under Soeharto," *Contemporary Southeast Asia* 12, no. 4 (1991): 331–46.
[16] Ian Hurd, *International Organizations: Politics, Law, Practice* (Cambridge: Cambridge University Press, 2014).
[17] Yvette Tanamal, "Illegal Fishing Still Rife Despite Indonesia-Vietnam EEZ," TheJakartaPost, 2023, https://www.thejakartapost.com/world/2023/04/19/illegal-fishing-still-rife-despite-indonesia-vietnam-eez.html.

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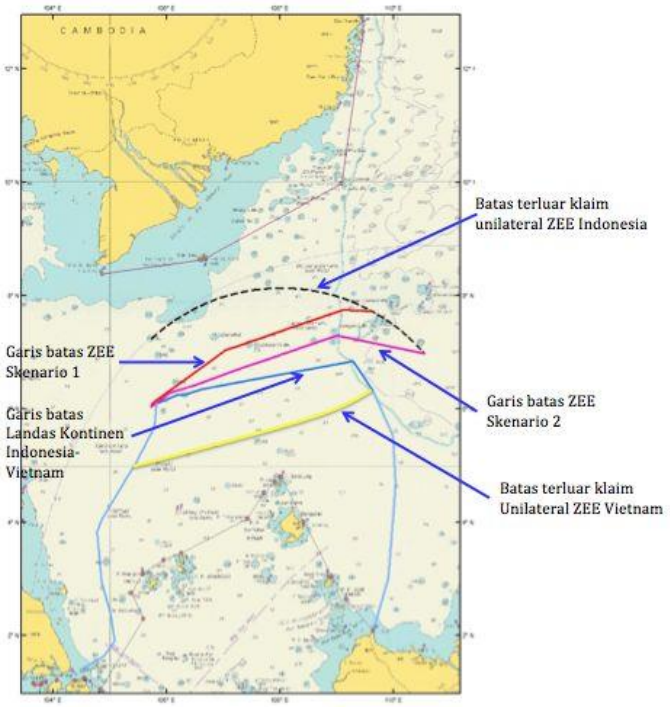
uses the archipelagic baseline technique to close the sea area between islands as a characteristic of an archipelago, and Vietnam uses the straight baseline technique, which then makes its EEZ boundary lean towards the Indonesian EEZ region.



2. Maritime Dispute Settlement in EEZ Delimitation Dispute

International law do not obligate the international communities to choose certain procedure of dispute settlement. Confirmed in Article 33 of United Nations (UN) Charter which asking the states entities to choose a peaceful settlement for their dispute while also provide some others choices to be chosen by the disputed states.[18] If there is an international tension raising from a dispute, the countries argue that it would be better if the dispute can be resolved politically, considering that the system of settlement through this method is more flexible, does not bind and prioritize the sovereignty of each party.[19] If it does not work, then a legal settlement procedure was took, if the dispute has legal aspects as well. Even the procedure can be used continually and in parallel.[20][21][22]

[18] Boer Mauna, *Hukum Internasional: Pengertian Peranan Dan Fungsi Dalam Era Dinamika Global*, 6th Ed (Bandung: Alumni, 2018).
[19] Ibid, P. 195.
[20] International Court of Justice, "Aegean Sea Continental Shelf Case" (Den Haag: International Court of Justice, 1976), 12.
[21] International Court of Justice, "Case Concerning United States Diplomatic and Consular Staff in Tehran" (Den Haag: International Court of Justice, 1979), 22–23.

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The maritime dispute settlement methods on the law of the sea has various methods in its application, according to Article 287 UNCLOS 1982, each party flexibly to choose dispute of settlement methods which called *Montreux Formula*.[2324] There were at least four methods which could be chosen by disputable parties, namely International Tribunal on the Law Of the Sea, International Court of Justice, an Arbitral Tribunal, and Special arbitral tribunal. The main maritime dispute resolution is regulated in chapter XV UNCLOS 1982. The solution has a method that promotes two principles, namely peaceful means with voluntary procedure and compulsory procedure.[2526] and can choose 2 main lines and their descriptions, namely:

a. Peaceful Means[27]: Participating countries choose the method of resolving disputes in accordance with the agreement of the countries in dispute in the case of interpretation and application of the convention. This can take the form of conciliation or the obligation to exchange opinions.[28]
b. Procedures in UNCLOS if no agreement is reached between participating countries (compulsory procedures), among others, through[29]:
    i. International Tribunal on the Law of the Sea (ITLOS) in accordance with annex VI. Not a court under the United Nations, ITLOS is a dispute resolution body consisting of 21 independent judges and chosen from people who have good reputation in the field of marine law. In addition there is a special Chamber, namely the Seabed Dispute Chamber which was formed in 1997, which consists of 11 selected member judges for 3 years and can be elected for the second time.
    ii. International Court of Justice (ICJ). Based on Article 34 of the ICJ Statute, the settlement at ICJ applies to

[22] International Court of Justice, "Case Concerning Military and Paramilitary Activities in and Against Nicaragua" (Den Haag: International Court of Justice, 1984), 433.
[23] Andronico O. Adede, *The System for Settlement of Disputes under the United Nations Convention on the Law of the Sea: A Drafting History and a Commentary* (Dordrecht: Nijhoff, 1987).
[24] Andronico O Adede, "The Basic Structure of the Disputes Settlement Part of the Law of the Sea Convention," *Ocean Development & International Law* 11, no. 1–2 (1982): 125–48, https://doi.org/https://doi.org/10.1080/00908328209545694.
[25] Yoshifumi Tanaka, *The International Law of the Sea* (Cambridge: Cambridge University Press, 2019).
[26] Article 279 and 286 of United Nations Convention on the Law of the Sea 1982
[27] Article 280 of United Nations Convention on the Law of the Sea 1982
[28] Article 283 and 284 of United Nations Convention on the Law of the Sea 1982
[29] Article 287 of United Nations Convention on the Law of the Sea 1982

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UN participating countries and only disputes by countries. Sea disputes and interpretations of the conventions are included in article 36 of the ICJ Statute.

iii. Arbitral Tribunal in accordance with Annex VII. The court is formed based on Annex 7 and consists of 5 members who must be experienced and marine affairs, and not required as a lawyer.

iv. Special Arbitral Tribunal in accordance with Annex VIII. It also consists of 5 members, and must be experts in certain fields, namely (1) Fisheries, (2) Preservation and protection of the marine environment, (3) Marine Scientific Research, and (4) Navigation, and including ship pollution due to disposal. Only four of these fields can be completed in the Special Arbitration Court.

In addition to the methods for resolving disputes, the stages of the initial examination of disputes are also regulated in this chapter before the dispute is filed in the court. Each party will at least agree to settle disputes with their own choice. as article 287 states, both parties must be made *Travaux Preparatoires* before submitting a dispute to the court. In addition, the court will found *prima facie* in the dispute. If the court cannot find it, then the work will not take further action.[30] Other than those dispute settlement, national legislation also could be the choice of law to adjudicate maritime dispute under a court or tribunal having jurisdiction under this section.[31]

Not only as regulated in UNCLOS, Vienna Convention itself has a special regulation regarding the settlement of disputes that called Optional Protocol concerning the Compulsory Settlement of Disputes which done at Vienna on 18 April 1961. This agreement is made to Expressing their wish to resort in all matters concerning them in respect of any dispute arising out of the interpretation or application of the Convention to the compulsory jurisdiction of the International Court of Justice, unless some other form of settlement has been agreed upon by the parties within a reasonable period.[32] However, Indonesia is not show its consent regarding this protocol. Vietnam does sign this protocol in 1973. The exception is because the Indonesian government prioritizes dispute resolution through negotiations or consultations between disputing countries. Cases through this chapter will show the facts as comparison on how effective the court settling the maritime delimitation case.

[30] Article 294 of United Nations Convention on the Law of the Sea 1982
[31] Article 286 of United Nations Convention on the Law of the Sea 1982
[32] Optional Protocol concerning the Compulsory Settlement of Disputes 1961

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***North Sea Continental Shelf Cases* (*FRG v. Denmark and the Netherlands, 1969*)**

Case Position: Through two Special Agreements, FRG and Denmark, and FRG and the Netherlands, submit disputes regarding the boundary of the Continental Shelf which is shared with the Court of International Justice. One of the duties of the Court is to identify the rules that bind these States, and by doing so the ruling provides considerable information about the circumstances in which international customary law can be made. The ICJ found that the determination of the continental shelf boundary between these countries (and hence providing access to valuable oil reserves below them) must be decided in accordance with international customary law because the relevant agreement (Shelf Continental Convention 1958) has not entered into forcing all parties the dispute.

The Court rejected the contention of Denmark and the Netherlands to the effect that the delimitations in question had to be carried out in accordance with the principle of equidistance as defined in Article 6 of the 1958 Geneva Convention on the Continental Shelf. Holding: That the Federal Republic, which had not ratified the Convention, was not legally bound by the provisions of Article 6 that the equidistance principle was not a necessary consequence of the general concept of continental shelf rights, and was not a rule of customary international law. The Court concluded that the method of the line of history is similar to the meaning of landing point which is a natural extension or continuation of land area country. So, according to the court, the distance line method is the same as stated in article 6 of the convention, by convention it is intended as an experimental basis of law which is right or should not be an existing law. Article 6 is also not an International Customary Law and the status is the same as the provisions of other conventions, and the parties are not obliged to implement it.

***Maritime Delimitation and Territorial Questions between Qatar and Bahrain* (*2001*)**

The parties requested the ICJ to draw a single maritime boundary over the resolution of certain territorial questions relating to the islands in the Qatar and Bahrain regions. The Court make a decision that in its Judgment on the case concerning Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar v. Bahrain), the Court: unanimously found that Qatar has sovereignty over Zubarah. Bahrain has sovereignty over the Hawar Islands. Vessels of Qatar enjoy in the territorial sea of Bahrain separating the Hawar Islands from the other Bahraini islands the right of innocent passage accorded by customary international law. Qatar also has sovereignty over Janan Island, including Hadd Janan. Bahrain has sovereignty over the island of Qit'at Jaradah; unanimously found

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that the low-tide elevation of Fasht ad Dibal falls under the sovereignty of Qatar. Last, decided by thirteen votes to four that the single maritime boundary that divides the various maritime zones of Qatar and Bahrain shall be drawn as indicated in paragraph 250 of the Judgment.

The Court decide that restricting the territorial sea does not present a comparable problem, because the rights of coastal States in the area concerned do not function but territorial, and require sovereignty over the seabed and waters and adjacent air columns. Therefore, when implementing part of its duties, the Court must apply the principles and rules of international customary law first and foremost referring to the determination of territorial sea boundaries, while considering that its main task is to draw a functioning sea boundary.

Courts do not deny that maritime features on the east of the main islands of Bahrain are part of the overall geographical configuration; will be too far, however, to fulfill their requirements as a suburb along the coast. The islands in question are relatively small in number. In addition, in this case it is only possible to talk about 'island groups' or 'island systems' if the main islands of Bahrain are included in the concept. In such a situation, the straight-line baseline method only applies if the State has declared itself an archipelago based on Part IV of the 1982 Convention on the Law of the Sea, which does not apply to Bahrain in this case.

The court, therefore, concluded that Bahrain was not entitled to apply a straight-line baseline method. Thus each maritime feature has its own effect for determining baselines, with the understanding that, for reasons previously set, the height of low tide located in the overlapping zone of the territorial sea will be ignored. It is on this basis that the equidistance line must be drawn.

3. Border Diplomacy in Maritime Delimitation Disputes

Diplomacy comprises any means which states establish or maintain mutual relations, communicate with each other, or carry out political or legal transactions, in each case through their authorization agents.[33] Diplomatic relations are needed to strengthen the friendship and cooperation between nations. In this diplomatic relationship, there is a juridical aspect that needs special attention, namely the existence of concurrent powers of two countries over the same region. Problems that can arise are quite heavy because the world is currently filled by countries consisting of different political, economic, and social systems. In addition, there are also colonial countries and ex-colonial

[33] Ian Brownlie, *Principles of Public International Law*, 4th Ed (Oxford: Oxford University Press, 1990).

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countries that are always concerned about the efforts of direct domination of the former colonial countries.

The Vienna Convention on Diplomatic Relations in 1961 is now a universal convention because almost all countries in the world are parties to the juridical instrument. the task of diplomatic representatives is divided into two functions, first for non-permanent diplomatic missions and permanent diplomatic missions. For non-permanent representative missions, its function is limited to the task assigned to the diplomatic representative to deal with certain issues in accordance with the contents of the credentials given to them for special matters. For example, to hold special negotiations concerning border areas. A diplomatic representative or more carry out the mission and in general if the negotiations are completed, then the non-permanent diplomatic mission is completed.[34]

Meanwhile, the duties and functions of permanent diplomatic representatives remained very broad and predetermined, most of which were in the 1961 Vienna convention:

a. Representing his country in the recipient country;
b. Protect the interests of sending countries in recipient countries within the limits permitted by international law;
c. Hold negotiations with the government where they are placed;
d. Provide reports to sending countries regarding circumstances and developments in the recipient country in ways that can be justified by law;
e. Increasing friendly relations between countries, especially with sending and receiving countries and developing and expanding economic, cultural and scientific relations between them.

Moreover, about the negotiation function, according to article 3 paragraph 1c of the 1961 Vienna Convention, it is determined that diplomatic officials hold negotiations with the government of the recipient country. As one of the diplomatic functions, usually, negotiations on certain matters are carried out by certain envoy, especially if technical matters. Therefore, the original reason for the rise of diplomats the intention of having a representative in a foreign capital compowered to negotiate agreements with the receiving state, was to 'deal' directly with the foreign government.[35] This choice of settlement has being practiced by most states in every region.

Some maritime delimitation disputes, which settled by this way also, have done by Indonesia with several neighborhood countries. For the delimitation territorial sea, Indonesia has completed its territorial

[34] Setyo Widagdo and Hanif Nur Widhiyanti, *Hukum Diplomatik Dan Konsuler* (Malang: Bayumedia Publishing, 2008).
[35] Gerhard von Glahn and James Larry Taulbee, *Law Among Nations: An Introduction to Public International Law* (Needham Heights: Allyn & Bacon, 1996).

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sea boundaries with Papua New Guinea (12 February 1973), parts of Malaysia (17 March 1970), and Singapore (25 May 1973) by bilateral negotiations. Regarding the delimitation EEZ, Indonesia has just set an EEZ agreement only with Australia through Treaty between The Government of Australia and The Government of Indonesia Establishing an Exclusive Economic Zone Boundary and Certain Seabed Boundaries 1997. Therefore, Indonesia still has to complete many delimitation EEZ agreements in with several other neighboring countries directly adjacent to it.

E. Conclusions

Dispute settlement in international law could settled in peaceful means with diplomatic resolutions, judicial process in court, and arbitration. Judicial settlements has the powerful and binding decision. Yet, judicial settlement gave a win-lose solution to the parties who choose this compulsory settlement way. Arbitration is peaceful, but distinguishable from the diplomatic processes because it involves some level of judicial activity.

Diplomatic Mission as the representative of sending state has separated into two parts which are non-permanent mission and permanent mission with different authority. Yet, both had one in common which is both mission has a duty to do a negotiation in any government as long as they got the credentials from the sending state. The 1961 Vienna Convention on Diplomatic Relations authorized diplomatic missions to represent the state in resolving problems and disputes with other countries through this peaceful route. Unsigned optional protocol on compulsory dispute resolution by Indonesian government has made Indonesia continue to work on resolving its problems with other countries through diplomatic channels.

In the case between Indonesia and Vietnam, representatives of the Indonesia Ministry of Foreign Affairs were representatives of temporary diplomatic missions who sought to resolve the Delimitation EEZ boundary with the Vietnam. Negotiations have been going on for a long time, but, the solution sought by both parties speeded up after some illegal, unreported and unregulated fishing in the undelimited EEZ boundary also after the collision of Indonesian Navy ships by the Vietnam Coast Guard's ship.

The effectiveness of those dispute settlements could be observe from several cases that become comparisons. Delimitation EEZ cases resolved through compulsory settlement must have final legal force and lines determined by competent legal experts. The judges, who assess the case from various aspects, are not limited only to legal aspects. The Court, in this topic-International Court of Justice (ICJ) that have chosen as a dispute resolution institution has examined the case from various aspects, such as historical aspects of the region, development aspects, geography, and comparison with other cases.

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Negotiation and diplomacy, offer them something else. Political consideration and national interest are the valuable points to be consider. It seeks for a win-win solution between parties. The negotiations will end with an agreement with the consent of the parties on the result of their discussions. It will tied the parties only after the signatory and ratification, while it could take years even decades to be decide. Diplomacy settlement has a less tension and risk rather than compulsory settlement. However, compulsory settlement got a lot more certainty from the time efficiency and legal aspects.

Maritime dispute settlement between Indonesia and Vietnam have been through a long negotiation since after they settled the delimitation continental shelf in 2003. That is a good choice of both states because it did not create a tension between both neighboring states. However, in private opinion of the author both states need to make a deadline for completion of negotiations before more disputes concerning this area arise again. If it is not, natural resources and minerals inside this area could create bigger problems ahead. If they fixed the target time, both states could choose another settlement of disputes when they do not make the deal with the compulsory settlement.

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