



## **Indonesia's Strategy to Uphold its Sovereign Rights in Its Exclusive Economic Zone (EEZ) in the North Natuna Sea**

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### **Abstract:**

Ever since the end of World War II, in 1947 the Republic of China (ROC), then People's Republic of China (PRC) has involved in overlapping claims on the South China Sea (SCS) with Brunei, Philippines, Malaysia, and Vietnam, triggered by Nine Dash Line (NDL) map of China which claims 85% of SCS and its Spratly Islands and Paracel Islands, which seizing other countries' island and waters and bringing the friction is known as South China Sea (SCS) Dispute.

Efforts have been made by those countries through bilateral and multilateral meetings, including in the ASEAN and PRC governments Meeting in Phnom Penh, November 4th, 2002 which produced the Declaration On The Conduct Of Parties In The South China Sea (DOC SEA), with the commitment "to resolve their territorial and jurisdictional disputes by peaceful means, without resorting to the threat or use of force, through friendly consultations and negotiations by sovereign states directly concerned, with universally recognized principles of international law, including the 1982, UN Convention on the Law of the Sea." (DOC SEA. 2002). In contrast, not long after the Phnom Penh Meeting, China continued its strategy by maneuvering around the South China Sea to impose its NDL claim. Amid the intensifying tensions brought by these offensive maneuvers, in 2009 China issued and registered to the United Nations (UN) its new NDL claim map which includes Indonesia's Exclusive Economic Zone (EEZ) in the Natuna Sea, southern of SCS, which Indonesia changed the name to the North Natuna Sea in 2017. The UN refuses this China's claim since it is not based on any international law particularly the United Nations Convention on the Law of the Sea, 1982 (UNCLOS 1982). Indonesia also rejects this China's NDL claim since it is categorically against its sovereign rights as stipulated in the UNCLOS 1982.

This review suggests that Indonesia needs to adopt a strategy with two approaches that are concurrently executed and mutually supportive, in order to uphold its sovereign rights in its EEZ in the North Natuna Sea. The first approach is a total diplomacy to approach all countries in the Asia region, particularly China, to recognize and respect Indonesia's sovereign rights as stated in the UNCLOS 1982. The second approach is increasing the defense capability including the improvement of the capability of the system, personnel, armament and equipment; to secure the works and worker of the activities of research and exploration and exploitation of natural resources; as well as guarding the security of the North Natuna Sea and the region of Kepulauan Riau Province.

**Keywords:** Indonesia, Sovereign Rights, Exclusive Economic Zone (EEZ), the North Natuna Sea.

### **1. Introduction**

On the 1st of December 2021 both the Indonesian (Iyabu, A.F. 2021) and international press (Person and Tom Allard, K.L. 2021) reported that China had protested and asked Indonesia to stop drilling for oil and natural gas in the North Natuna Sea. China claims that the drilling location is located within its region, and because Indonesia has permitted the drilling works, Indonesia must also put a stop to it. Since the location of the oil and natural gas drilling on the Tuna Block, which is approximately 140 nautical miles from Natuna Island, falls inside Indonesia's Exclusive

Economic Zone (EEZ) as well as its continental shelf. Indonesia has chosen to ignore China's protests and continue drilling despite the fact that China has expressed concern about the situation.

So far China never clarifies what is the law basis of its NDL claim on Indonesia's EEZ in the North Natuna Sea. In fact, according to Dr. Purnomo Yusgiantoro, Indonesia Energy and Mineral Resources Minister (2000-2009), and Defense Minister (2009-2014) (Yusgiantoro, P. 2021); "in his meetings with China Defense Minister in Beijing in 2012 and 2014 and in Jakarta in 2013 2014, China Defense Minister told him that China has no claim on Indonesia region". The same also stated by China Foreign Affairs Vice Minister to Indonesia Foreign Affairs Vice Minister in Hainan in March 201. But the China Vice Minister added; "China claims on Indonesia's EEZ North Natuna Sea because that area is its traditional fishing ground based on history." (Yusgiantoro, P. 2021).

One can really analyze that the China's motive in claiming Indonesia's EEZ in the North Natuna Sea is not apart from the attractiveness of natural resources richness of the North Natuna Sea. As written by Angelia (Angelia, D. 2022) in her report; The Hugh Potential of the Natuna Sea Resources; "In 2011, the potential of fish resources in the Natuna Sea reached 504.212,85 ton/year. And, East Natuna Block itself contained 222 trillion tcf IGIP (Initial Gas in Place) as well as 36 million barrel of oil." Actually, since the end of June 2021, China has been vocal in its opposition to Indonesia's plans to drill for oil and natural gas in the North Natuna Sea. According to a report by Sebastian Strangio (Strangio, S. 2021); "The standoff in question began in late June, when a semi-submersible rig, the Noble Clyde Boudreaux, arrived and began drilling two appraisal wells in Indonesia's Tuna Block, located approximately 140 nautical miles from the base line of Natuna Island." Indonesia is not a claimant state of the South China Sea Dispute. But when in 2009 China reported to the UN its new map of Nine Dash Line to include claiming Indonesian EEZ in the North Natuna Sea and followed by intensifying its maneuvers in that area, Indonesia has vocally declined and actively shown its presence in the North Natuna Sea.

According to Fravel (Fravel, M.T. 2011) and Rossiana (Rossiana, Y.S. 2022), the overlapping claims in the South China Sea have been in place since 1947 and involve Brunei, the Philippines, Malaysia, Vietnam and China. Brunei declared Louisa Reef, which is located on Brunei's continental shelf, to be a part of its territory when it gained its independence from Britain in 1984. Brunei only asserts ownership over Louisa Reef, despite the fact that the marine features Bombay Castle, Owen Shoal, and Rifleman Bank are all located in the exclusive economic zone (EEZ) of Brunei. Louisa Reef is also claimed by Vietnam and China.

Since the 17th century, Vietnam has maintained that it is the rightful owner of the Paracel and Spratly Islands, and the country maintains that it possesses historical documents to back up its claim. Vietnam controls 25 rock and sand formations and islands in the Spratly Islands, including: Spratly Island, Namyit Island, Sin Cowe Island, Amboyna Island, Sand Cay, West Reef, Central Reef, East Reef, Bombay Castle, Barque Canada Reef, Pearson Reef, Alison Reef, Cornwallis South Reef, Tennent Reef, Lansdowne Reef, Collins Reef, Union Reefs, Discovery Great Reef, Petley Reef, South Reef, Vanguard Bank, Price Consort Bank, Grainger Bank, and Ladd Reef.

The Philippines claims the northeastern portion of the Spratly Islands, which is known as Kalayaan in the Philippines, and Scarborough Shoal which is a circular coral reef formation located 230 kilometers from the Philippines and 100 kilometers from China's Hainan Island. The Philippines controls Thifu Island, West York Island, Northeast Cay, Loalita Cay, Lankiam Cay, Flat Island, Nanshan Island, Second Thomas Shoal, and Commodore Reef.

Malaysia has staked a claim to a portion of the South China Sea in northern Borneo, which covers at least 12 maritime structures in the Spratly Islands, two of which are controlled by Vietnam: Amboyna Cay and Barque Canada Reef. Although Malaysia asserts ownership of Commodore Reef and Rizal Reef, these two atolls are controlled by the Philippines. In the meanwhile, Malaysia maintains authority over the coral reefs Swallow, Ardaiser, Erica, Mariveles, and the Investigator. Brunei and Vietnam; Malaysia and the Philippines; and Vietnam and Malaysia, have been trying to bilaterally negotiate to address overlapping claims on the South China Sea (SCS), with some

progress but have not totally solved the dispute. On the other hand, China is resistant to multilateral negotiations, including those that are facilitated by ASEAN. Instead, China prefers bilateral discussions with South China Sea claimant countries. While these ASEAN nations are attempting to discuss overlapping claims in the South China Sea with China through ASEAN mechanism.

In the Meeting between ASEAN Member State and the People's Republic of China (PRC) governments that took place in Phnom Penh on November 4, 2002, the governments of ASEAN countries and China gave birth to the Declaration On The Conduct Of Parties in the South China Sea (DOC SCS). The essence of this agreement is that it seeks to peacefully resolve any differences and disputes between ASEAN countries and China, including the South China Sea Dispute; to produce peaceful and durable solutions, which are pursued through dialogue by affirming commitment to the goals and principles of UNCLOS, 1982. (DOC SCS, 2002). Since then, ASEAN countries have been trying to use diplomacy to find a peaceful and win-win solution to no response by China.

In fact, an adoption of a Code of Conduct in the South China Sea to further promote peace and stability in the region, as committed by the Phnom Penh Meeting, up till now, already more than 20 years, is still in the air. ASEAN countries particularly Indonesia from year to year have been trying to convince China to come to formulate the Code of Conduct in the South China Sea (COC SCS), to no avail. It is time now for ASEAN countries and China to come to an agreement on a COC in the South China Sea which is desperately need to address the dynamic development of the South China Sea dispute with its negative impacts. In the Rector of Indonesia Defense University, Amarulla Octavian words (Octavian, A. 2022); "Even though non-binding, it is hoped that the COC will be quite effective in increasing trust among concerned parties, although it cannot solve the dispute. At least, it could minimize tension in the South China Sea by regulating how parties should conduct and behave until a common resolution is agreed by all involved actors."

## 2. Literature Review

The intensive tension brought by China's NDL claim on Indonesia's EEZ in the North Natuna Sea is part of the larger problem and continuing increased tension due to the South China Sea Dispute which involves Brunei, China, Malaysia, the Philippines, Singapore, Thailand, and Vietnam (Schofield, C. 2016). As the biggest claimant, with its NDL China claims 85 % of the South China Sea and its Spratly Islands and Paracel Islands and the surrounding sea features, which is also commonly called as the "blue national land" by its people (Darmayadi, A. and Purnamasari, E.N. 2022). The China's NDL claim on Indonesia's EEZ in the North Natuna Sea is only happened when China registered to the United Nations (UN) in 2009, its new NDL map, which rejected by the UN because it is not based on any international law particularly the UNCLOS 1982. And China's reason that its claimed area is part of its traditional fishing ground (TFG), is unknown in the legal system particularly in the law of the sea. (Yusgiantoro, P. 2021).

Indonesia categorically refuses that China's NDL claim since the claimed area is located within Indonesia's EEZ, which Indonesia has sovereign rights according to the UNCLOS 1982. Up until now the tension between Indonesia and China still continues due to increasing violations by fishing boats and China Coast Guard (CCG) vessels in the Indonesia's EEZ in the North Natuna Sea and the prevention or expulsion action by Indonesia's Sea Security ships. (Iyabu, A.F. 2021), (Person and Tom Allard, K.L. 2021), (Dharma Agastia IGB. 2020). How Indonesia can uphold its sovereign rights in this case?

One way to do so is by executing the total diplomacy strategy, which its era has begun since as early as 1951. (Fox, W.T. 1951). Total diplomacy is a way in which instead of using physical weapons to solve conflict, the conflicting parties use will and intelligence to achieve their purposes. Information will be used to influence opinions and composed "truth", especially in influencing the opposing parties (Gygax, J. and Snow, N. 2013).

Another way to be concurrently undertaken to achieve that purpose is by increasing defense capabilities particularly the system, forces, equipment and weaponry which utilize satisfied

technology especially information and communication technology, as well as cyber one. (Sjamsuoddin, S., Yusgiantoro, P., Saragih, H.J.R. and Soepandji, B.S. 2022).

The main goal of this strategy has been to protect the works, worker, and equipment of exploring and exploitation of natural/sea resources, scientific research activities, and protecting the security of the North Natuna Sea and the Riau Islands province from various violations among others smuggling, human trafficking, and drug trafficking. Though it can also be argued that it can go beyond that aspect to the ambitions, obligations, and responsibilities beyond the country's borders. (Techau, J. 2013).

### 3. Discussion

Urgent action is required to conclude discussions and reach agreement on maritime boundary between Indonesia and the Philippines, India, Malaysia, Palau, Singapore, Thailand, and Timor Leste. Even though none of the remaining sea boundaries that are being negotiated or will be negotiated pertain to Indonesia's EEZ area in the North Natuna Sea, the conclusion of a comprehensive agreement on maritime boundaries between Indonesia and its seven neighbors will significantly reduce the frequency of violations, including those in the Indonesia's EEZ in the North Natuna Sea. It will also provide Indonesia with extra soft power to persuade China to abandon its claim on Indonesia's EEZ area in the North Natuna Sea.

So far, Indonesia has concluded negotiations on its marine boundary only with Australia, Papua New Guinea and Vietnam. After discussions for more many years, Indonesia with Australia has agreed their boundary on Continental Shelf, which was reached in 1972, and with Papua New Guinea on the Territorial Sea, which was reached in 1971, the Continental Shelf (1973), and on EEZ reached in 1980. After negotiations for more than 12 years, Indonesia and Vietnam has finally agreed their EEZ border at the end of year 2022, followed their agreement on their Continental Shelf boundary.

With the Philippines, in 2014, discussions over the EEZ borders have concluded, although it is uncertain when negotiations will restart regarding the Continental Shelf. The problem of the Continental Shelf was addressed through discussions with India in 1978, and negotiations on the EEZ are now ongoing. When pending negotiations will restart with Palau to settle the outstanding concerns of the Continental Shelf is still unclear.

The majority of Territorial Sea concerns have been settled, and the remaining Territorial Sea issues between Indonesia with Singapore, Malaysia, and Timor Leste are still under negotiation. On the remaining issue of Continental Shelf, the negotiation between Indonesia and Philippines, Malaysia, Palau, and Timor Leste, and negotiation between Indonesia and Malaysia, Thailand and Timor Leste, on the remaining EEZ issue, are yet to be scheduled. In light of the fact that Indonesia has maritime border issues with seven countries that remain unresolved, Indonesia must immediately take systematic steps to approach all of these countries in order to expedite the resolution of maritime border issues pertaining to territorial sea borders, continental shelf, and EEZ.

To hasten the conclusion, negotiations are proceeding with India, Malaysia, and Palau. To tackle the remaining concerns with the Philippines, Malaysia, Palau, Singapore, Thailand, and Timor-Leste, for which a date for discussions has not yet been set, it is required to quickly arrange a date and begin negotiations. This prolonged resolution of maritime borders has the potential to upset bilateral ties and cooperation between Indonesia and these nations, and it is not inconceivable that it would also threaten regional stability.

Negotiations and agreements between Indonesia and Malaysia on Territorial Sea, EEZ and Continental Shelf; between Indonesia and Singapore on Territorial Sea; and between Indonesia and Thailand on EEZ boundaries, should be sped up, taking into account that these three countries' waters are very close to Indonesia's EEZ in the North Natuna Sea. The dragging on agreement of these cases between the mentioned countries can become a potential threat for Indonesia in its sovereign rights upholding in the North Natuna Sea.

At the same time, Indonesia needs to improve its total diplomacy approach including cultural diplomacy and defense diplomacy, directly to China to convince it that its attitude of not recognizing Indonesia's EEZ rights in the North Natuna Sea waters and claiming these waters as its territory is contrary to the provisions of UNCLOS 1982. China's attitude like that, will disrupt relations and cooperation in all fields that have so far been well-developed between Indonesia and China. If China's attitude continues like this, not only it will disrupt the good relation and cooperation between the two countries but also it will damage East Asia regional stability which also has been guarded and promoted by China and Indonesia, which of course is not wanted by these two friendly countries.

Indonesia should take lesson from the 2013 decision of the Permanent Court of Arbitration (PCA) The Hague, that after sitting for three years gave win to the Philippines on the case of China's claim on Scarborough Shoal and its waters, reasoning that China has not legal basis in claiming it. "Although the PCA decision is based on UNCLOS 1982, which is China has been a party to the Convention, China categorically refuses that decision and declared not to execute the decision." (Koesmawardani N.W. 2016).

Meanwhile, according to the UNCLOS 1982 as a coastal state, Indonesia has sovereign rights in its EEZ, which its breadth "shall not extend beyond 200 nautical miles (Art. 57, UNCLOS. 1982), and Continental Shelf which "comprises the sea-bed and subsoil of the submarines areas that extend beyond its territorial sea throughout the natural prolongation of its land territory to the other edge of the continental margin, or to a distance of 200 nautical miles from the baselines from which the breadth of the territorial sea is measured where the outer edge of the continental margin does not extend up to that distance." (Art. 76, UNCLOS. 1982). In its EEZ Indonesia has "sovereign rights for the purpose of exploring and exploiting, conserving and managing the natural resources, whether living or non-living, of the waters superjacent to the sea-bed and of the sea-bed and its subsoil, and with regards to other activities for the economic exploitation and exploration of the zone, such as the production energy from the water, currents and winds; and jurisdiction as provided for in the relevant provisions of this Convention with regard to: the establishment and use of artificial islands, installations, and structures; marine scientific research; the protection and preservation of the marine environment" (Art. 56, UNCLOS. 1982). Indonesia also has sovereign rights over the continental shelf "for the pupose of exploring it and exploiting its natural resources." These rights "are exclusive in the sense that if the coastal State does not explore the continental shelf or exploit its natural resources, no one may undertake these activities without the express consent of the coastal State." (Art. 77, UNCLOS. 1982).

In this regard, Indonesia needs to bilaterally and multilaterally approach international circle including government, non-government organization, analyst, and press, especially in the Asian region particularly to convince China to recognize and accept UNCLOS 1982 provision and therefore abandon its claim on Indonesia's EEZ in the North Natuna Sea. If China keep postponing or even failed to do so, not only it will jeopardize its well-maintained multi aspect relationship with Indonesia, but also it is difficult for everyone to prevent the tension in the South China Sea transformed to open conflict which certainly will disturb the region good cooperation and relations threaten the security of the South China Sea and its surrounding countries to include China itself, which of course not wanted by all parties concerned.

Concurrently, Indonesia's diplomacy offensive needs to be accompanied by efforts to improve its defense capabilities to protect the security of the activity, labor, and equipment, of the ongoing natural resources exploitation and exploration; and scientific marine research, which operates in the North Natuna Sea, as well as the security of the province of Riau Archipelago region and the North Natuna Sea. The increasing of defense capability will consists of systems, personnel, equipment and armaments employing advanced technologies such as telecommunication, information, communication, and cyber technology, must be enhanced in order to combat potential threats and disturbances in these waters. In addition to supporting natural resource management, oversight, and law enforcement, the North Natuna Sea EEZ area should be monitored for breaches of the freedom of navigation and flight. In the event that Indonesia's sovereign rights in the EEZ area in the North Natuna Sea is jeopardized, the threat will expand to Indonesia's national interest.



As mentioned above, according to the provisions of UNCLOS 1982 (UNCLOS. 1982), as a coastal State, Indonesia has a territorial sea that is 12 nautical miles wide from the baseline of its outermost islands, a continental shelf that includes the seabed and the land beneath it with a width of 200 miles from the baseline, an additional zone that borders its territorial sea up to 24 nautical miles from the baselines, and an EEZ, which is an area outside and adjacent to the territorial sea which width is 200 miles.

Parties permitted by Indonesian authority need to conduct all activities related to natural resource management, economic exploration and exploitation, marine scientific research, and the protection and preservation of the marine environment, based on the UNCLOS 1982 provisions. On the other hand, Indonesia is required to guarantee freedom of navigation across the sea in the EEZ waters and air passage in the airspace above it, so long as it does not transport illegal passengers or goods. In the event of any violation Indonesia is authorized to enforce its national laws.

#### 4. Conclusion

Indonesia needs to expedite negotiations with the Philippines, India, Malaysia, Palau, Singapore, Thailand, and Timor-Leste, in order to reach an agreement on the remaining maritime boundary issues, including the territorial sea, continental shelf, and EEZ. The agreement on the boundary of territorial sea between Indonesia and Singapore on territorial sea, on territorial sea and EEZ between Indonesia and Malaysia, and on EEZ between Indonesia and Thailand, should be prioritized, taking into account that these three countries are very close to the North Natuna Sea. This is the first step in implementing the strategy to uphold Indonesia's sovereign rights in its EEZ in the North Natuna Sea, as its jurisdictional region. The achievement of such agreement will aid Indonesia's attempts to protect its sovereign rights in the North Natuna Sea.

The second step which should be executed simultaneously with the first one is, through diplomacy particularly defense diplomacy and cultural diplomacy Indonesia should approach China, to have it nullify its NDL claim on the Indonesia EEZ in the North Natuna Sea, by leveraging Indonesia-China bilateral defense cooperation among others through regular meetings between Ministers of Defense of the two countries, exchange visit between military high officers and port visit. The close cultural relation and historical engagement between peoples of the two countries should be made used to approach China to have its NDL moved out from Indonesia's EEZ in the North Natuna Sea.

As quoted above, it is stipulated in the UNCLOS 1982 (UNCLOS. 1982), that Indonesia "has sovereign rights for the purposes of exploring and exploiting, conserving and managing natural resources, both living and nonliving, from the waters above the seabed and from the seabed and subsoil and with respect to other activities such as the production of energy from water, currents and wind." To uphold its sovereign rights, Indonesia also needs to improve its defense capability to protect the activity of research and conservation, exploitation and exploration of natural resources in the North Natuna Sea, and the security of that area, as well.

With this, Indonesia will really uphold its sovereign rights in its EEZ in the North Natuna Sea, and living together peacefully with all countries in the world particularly in Asia region, and increase their cooperation to work for researching, and economically exploring and exploiting the natural resources of the North Natuna Sea based on the UNCLOS, 1982, for the common benefit and welfare of the people.

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