

POSSIBILITY TO UTILIZE JOINT ARRANGEMENT ON FISHERIES BETWEEN INDONESIA AND VIETNAM ON DISPUTED EXCLUSIVE ECONOMIC ZONE (EEZ) IN THE NORTH NATUNA SEA

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ABSTRACT

Indonesia has sea boundaries with Vietnam and they are still in dispute over the Exclusive Economic Zone (EEZ) in the North Natuna Sea. Incidents between both maritime agencies along with both fishers frequently occur in the disputed area. The two governments have already talked to reach delimitation agreement. However, such efforts are never been easy. To avoid future incidents, the two countries need to negotiate and achieve provisional arrangement to jointly manage, exploit and conserve the overlapping EEZ that are rich in fish resources. This article is written to urge government to propose provisional arrangement to Vietnam. Through juridical normative methods based on the international and national rules as well as comparative practices, provisional arrangement is possible to be made. The government is urged to set detailed arrangement that can have a positive impact on fishers and the country's economy together with the conservation of natural resources in the area concerned.

Keywords: Fisheries Joint Arrangement, The Disputed Exclusive Economic Zone, The North Natuna Sea.

A. Introduction

Indonesia is the world's largest archipelagic country with the number of islands reaches 16,056.¹ The republic has ten (10) bordering countries.² Vietnam is one amongst them. Although not as close as Malaysia, Singapore, Timor Leste and Papua New Guinea, this socialist country has sea boundaries over the North Natuna Sea with Indonesia.³ The United Nations Convention on the Law of the Sea (UNCLOS) applies specifically with regard to the delimitation of maritime areas.

Until recently, Indonesia has not yet concluded all maritime delimitation agreement with all neighboring countries.⁴ This archipelagic nation has homework to conclude including with Vietnam. Both Indo-

nesia and Vietnam have not agreed yet on the overlapping EEZ around the North Natuna Sea which is rich in marine resources.⁵ They have already signed the Continental Shelf delimitation agreement in 2003.⁶ However, the agreement does not automatically cover EEZ as well. The EEZ delimitation arrangement shall be further discussed and arranged between the countries.

Indonesia and Vietnam have started negotiation on disputed EEZ since 2010.⁷ In fact, the talks on delimitation agreement on the Continental Shelf took place for about 30 years until the finally reached agreement and it was signed in 2003.⁸ Incidents over disputed water frequently occur including latest incident where Vietnam Coast Guard Ship crashed into Indonesia

¹ Aditya Mardiasuti, "Indonesia reported 16,056 islands with name to UN," Detik News, 5 May 2018, <https://news.detik.com/berita/d-4005694/indonesia-laporkan-16056-pulau-bernama-ke-pbb> (accessed 5 March 2020).

² Badan Pusat Statistik (1), *Statistical Yearbook of Indonesia 2018* (Jakarta: Badan Pusat Statistik, 2018), p. 3 & 5. See also Ekarina, "Government pushes to conclude maritime delimitation agreement with 10 neighboring countries," Katadata, 10 August 2019, <https://katadata.co.id/berita/2019/10/08/pemerintah-dorong-percepatan-perjanjian-batas-maritim-10-negara> (accessed 20 February 2020).

³ Please see Badan Pusat Statistik, *loc.cit.*, p. 5.

⁴ Muhammad Faiz Aziz, "Developing Joint Development Zone in Disputed Maritime Boundaries," *Indonesian Journal of International Law*, 2018, 15(4): 432-448, p. 433, <http://dx.doi.org/10.17304/ijil.vol15.4.735> (accessed 19 February 2020).

⁵ R. Kurniaty, Ikaningtyas, & P.A. Ruslijanto, 2018, "Analysis on Traditional Fishing Grounds in Indonesia's Natuna Waters Under International Law," *IOP Conference Series: Earth and Environmental Science*, 137(2018) 012039, p. 1. See also Dian Septiari, "Indonesia, Vietnam speed up EEZ delimitation," The Jakarta Post, 24 June 2019, <https://www.thejakartapost.com/seasia/2019/06/24/indonesia-vietnam-speed-up-eez-delimitation.html> (accessed on 25 February 2020).

⁶ Ministry of Foreign Affairs of Indonesia, *Agreement Between the Government of the Republic of Indonesia and the Government of the Socialist Republic of Vietnam Concerning the Delimitation of the Continental Shelf Boundary 2003*, *Treaty Room: List of Treaties Concluded by Indonesia*, <https://treaty.kemlu.go.id/apisearch/pdf?filename=VNM-2003-0021.pdf> (accessed 23 February 2020). See also Tran Truong Thuy and Le Thuy Trang, *Power, Law, and Maritime Order in the South China Sea* (London: Lexington Books, 2015), p. 273.

⁷ Damos Dumoli Agusman & Gulardi Nurbintoro, "Hard Work Continues to Settle Maritime Borders," The Jakarta Post, 13 December 2018, *Academia, Opinion*, <https://www.thejakartapost.com/academia/2018/12/13/hard-work-continues-to-settle-maritime-borders.html> (accessed 28 February 2020).

⁸ Dian Septiari, *loc.cit.*

Naval ship to protect its national fisher's vessel.⁹ It is noted that there were up to 294 Vietnam vessels illegally entering Indonesian jurisdiction within October 2014 to May 2019 or about 57 percent of foreign vessels. These vessels have been sunk down by Indonesian authorities.¹⁰

The process of talks and negotiations is still ongoing. Finalizing delimitation agreement has never been easy for all countries including for Indonesia and Vietnam. Maritime delimitation will only be achieved if each country removes excessive nationalistic egos. Nonetheless, domestic political situation has never been friendly to each party to support the negotiation.

There is an alternative way that can be utilized by the Indonesian government before reaching the deal with Vietnam. Provisional arrangement on joint management, exploitation and conservation can be provisional solution that can have positive impact on both countries. These two ASEAN members should have respected the ASEAN Charter and the 1976 Treaty of Amity and Cooperation which encouraged the resolution of regional problems through

consensus principle.¹¹ The provisional arrangement is based on Article 74(3) of UNCLOS 1982.¹² Article 74(3) sets the rule as follows:

*"Pending agreement as provided for in paragraph 1, the States concerned, in a spirit of understanding and cooperation, shall make every effort to enter into provisional arrangements of a practical nature and, during this transitional period, not to jeopardize or hamper the reaching of the final agreement. Such arrangements shall be without prejudice to the final delimitation."*¹³

Meanwhile, paragraph 1 of Article 74 provides the rule below:

*"The delimitation of the 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."*¹⁴

What is provisional arrangement? Provisional arrangement is not easily defined since there are no formal definition exists in explaining the term yet. The term provisional arrangement has similar meaning

⁹ I Made Andi Arsana, "Causes of Disputes Between Indonesia and Vietnam on the South China Sea," *Tempo*, 21 May 2019, <https://kolom.tempo.co/read/1207615/akar-perseteruan-indonesia-vs-vietnam-di-laut-cina-selatan/full&view=ok> (accessed 18 February 2020).

¹⁰ CNN Indonesia, "RI-Vietnam Accelerates Exclusive Economic Zone Negotiations," CNN Indonesia, 1 August 2019, <https://www.cnnindonesia.com/internasional/20190801092733-106-417294/ri-vietnam-percepat-perundingan-zona-ekonomi-eksklusif> (accessed on 18 February 2020).

¹¹ ASEAN, "Treaty of Amity and Cooperation in Southeast Asia," Denpasar, 24 February 1976, <https://asean.org/treaty-amity-cooperation-southeast-asia-indonesia-24-february-1976/> (accessed 22 February 2020).

¹² I Wayan Partiana, *Hukum Laut Internasional dan Hukum Laut Indonesia (International Law of the Sea and Indonesian Law of the Sea)* (Bandung: Yrama Widya, 2014), p. 166.

¹³ Convention on the Law of the Sea, Dec. 10, 1982, 1833 UNTS 397. See also Stephan Fietta and Robin Cleverly, *A Practitioner's Guide to Maritime Boundary Delimitation* (Oxford: Oxford University Press, 2016), p. 25.

¹⁴ *Ibid.*

with the term joint development zone. According to Biang, joint development zone is a joint arrangement to establish joint jurisdiction over the maritime area based on Article 74(3) UNCLOS 1982.¹⁵ This is a type of cooperation between one country and another to jointly manage and explore when the parties have dispute over maritime areas. The areas cover living and non-living resources including fish and hydrocarbon resources.¹⁶

Article 74(3) UNCLOS 1982 provides clear rule for state parties to reach temporary agreement with neighboring countries when they cannot reach any consensus for maritime delimitation purposes. The arrangement must be made in the spirit of good faith, mutual understanding, and cooperation. Disputing countries are prohibited from endangering or hindering one another by taking dangerous actions or blocking efforts to reach final consensus.¹⁷ Article 74(3) sets convenient and flexible ways for coastal states when they are not able to resolve their disputes. The article does not provide any format or standard forms.¹⁸ Nonetheless, form of treaty is common to use by several countries to achieve consensus including in fisheries sector.

The overlapping zone claimed by the two countries can be managed jointly for the interests of each country for the purposes of economy, welfare and environmental protection as well as science development. This provisional mechanism has been widely used in a number of bordering countries. South Korea-China, China-Japan, South Korea-Japan and Russia-Norway are amongst the countries that have used the mechanism on joint fisheries where they respectively adjacent each other.

Based on what is stated in the previous paragraphs, the problem questions arisen to study on possibility to utilize provisional or joint arrangement between Indonesia and Vietnam on the disputed EEZ consist as follows: (1) to what extent are the progress of the Indonesia and Vietnam talks over the disputed EEZ? (2) what are the experiences of other countries in resolving these disputes and utilizing provisional arrangements? (3) to what extent are Indonesian national laws or regulations regulate provisional arrangements? (4) What should be provided in the provisional arrangement between Indonesia and Vietnam? This paper is made to identify and analyze the potential of pro-

¹⁵ J. Tangia Biang, The Joint Development Zone Between Nigeria and Sao Tome and Principe: A Case of Provisional Arrangement in The Gulf of Guinea International Law, State Practice and Prospects for Regional Integration, The United Nations – The Nippon Foundation of Japan Fellowship Programme 2009-2010, Division for Ocean Affairs and the Law of the Sea, Office of Legal Affairs, New York:United Nations, 2010, p. 54, <https://www.un.org/Depts/los/nippon/unnff_programme_home/fellows_pages/fellows_papers/tanga_0910_cameroon.pdf>, accessed on 9 June 2020.

¹⁶ Muhammad Faiz Aziz, *loc.cit.*, p. 435-436.

¹⁷ *Ibid.*, p. 436.

¹⁸ *Ibid.*

visional arrangements based on UNCLOS 1982 and Indonesian law provision on joint cooperation of fisheries in EEZ specifically for Indonesia-Vietnam purposes.

B. Research Method

This article is written based on desktop study method with juridical normative approach. The study is analytical and qualitative descriptive. The desktop/literature study method is used considering that the study of provisional arrangement on disputed EEZ can be conducted through a search of concepts, regulations, international rules and implementation through as follows: (1) primary legal material in the form of conventions, treaties and national regulations; (2) secondary material in the form of books, journals, news and official reports; and (3) tertiary material in the form of legal and language dictionaries.

C. Discussion

1. Progress Between Indonesia and Vietnam on Disputed EEZ

Indonesia has only recently concluded delimitation agreements at several coordinates with neighboring countries. There

are many coordinates with ten neighboring countries to be dealt with. Indonesia has not reached any delimitation agreement with Palau and Timor Leste.¹⁹ With Indonesia's total land and sea areas reaching 1,916,962.20 km²,²⁰ government still struggles to strive for the remaining maritime delimitation agreement.²¹ Indonesia, however, must respect the reluctance of neighboring countries despite its passion for talks and negotiations.²² This is understandable considering that in many diplomatic negotiations, political interest in negotiation is more dominant rather than legal interest. However, legal arguments dominate in justifying that political interest.²³

In 2019, Indonesian President Joko Widodo held a meeting with Vietnamese Prime Minister Nguyen Xuan Phuc during the 34th ASEAN Summit in Bangkok.²⁴ The meeting was followed up by a special meeting between both foreign ministers during the ASEAN Ministerial and Dialogue Partnership Meeting in the same city.²⁵ Interestingly, the idea of provisional arrangement emerged from the results of talks between the two ministers.²⁶ Until re-

¹⁹ Damos Dumoli Agusman & Gulardi Nurbintoro, *loc.cit.*

²⁰ Badan Pusat Statistik (2), *Statistical Yearbook of Indonesia 2019* (Jakarta: Badan Pusat Statistik, 2019), p.3.

²¹ Vivian Louis Forbes, *Indonesia's Delimited Maritime Boundaries* (Berlin: Springer-Verlag, 2014), p. 62.

²² Damos Dumoli Agusman & Gulardi Nurbintoro, *loc.cit.*

²³ Huala Adolf, *Hukum Penyelesaian Sengketa Internasional (Law of International Disputes)* (Bandung: Sinar Grafika, 2004), p. 27.

²⁴ Dian Septiari, *loc.cit.*

²⁵ Indonesian Ministry of Foreign Affairs, "Indonesia and Viet Nam Urge the EEZ Delimitation Settlement and Maritime Partnership Improvement," Ministry of Foreign Affairs of the Republic of Indonesia, 31 July 2019, <https://kemlu.go.id/portal/en/read/497/berita/indonesia-and-viet-nam-urge-the-eez-delimitation-settlement-and-maritime-partnership-improvement> (accessed 20 February 2020).

²⁶ *Ibid.*

cently, no further progress were published to follow up on such arrangement.

The provisional arrangement suggestion that emerged from the last meeting of the two ministers surely is good news and progress. After the Indonesia-Australia agreement on the Timor Gap in 1989, Indonesia has never entered into a joint management agreement again with neighboring countries over disputed maritime areas. The agreement was considered as the most prominent provisional agreement at that time.²⁷ Surely, there is good lesson learned which can be proposed and applied to Indonesia and Vietnam provisional arrangement.



Figure 1 – Overlapped EEZ between Indonesia and Vietnam

Source: IndoPacific News, 2019.

The overlapped EEZ in North Natuna Sea, as depicted in Figure 1, is actually rich in fishery stocks such as pelagic and demersal.²⁸ Considering the rich fisheries resources in the disputed EEZ, it is impossible to push a quick deal of delimitation agreement or maintaining the country's ego on the disputed areas just to show narrow nationalism. Compelling eagerness will harm Indonesia itself. Therefore, the international rules set out in UNCLOS 1982 must be obeyed. Provisional arrangement option based on Article 74(3) of UNCLOS 1982 is relevant and realistic ones to implement.

2. The Experiences from Other Countries

In fisheries sector, the joint arrangements of fisheries resources have already existed, for example South Korea-China, China-Japan, Korea-Japan, and Russia-Norway that are elaborated in the next section. The first three examples of joint fisheries arrangements are well-known for the dispute over the North China Sea and the Yellow Sea that has emerged for centuries.²⁹ Figure 2 displays the overlapping zone amongst South Korea, China and Japan. Meanwhile, the latter example is joint fisheries arrangement made on the Bar-

²⁷ Division of Ocean Affairs and the Law of the SEA Office of Legal Affairs, Handbook on the Delimitation of Maritime Boundaries (New York: United Nations, 2000), p. 17.

²⁸ Ahmad Naufal Dzulfaroh, "Become Favorite Place for IUU Fishing, what are the Potential of Natuna Waters?," Kompas, 3 January 2020, <https://www.kompas.com/tren/read/2020/01/03/200922665/jadi-tempat-favorit-kapal-asing-pencuri-ikan-apa-saja-potensi-perairan?page=all> (accessed on 20 February 2020).

²⁹ Guifang (Julia) Xue, Bilateral Fisheries Agreements for the Cooperative Management of the Shared Resources of the China Seas: Note, *Ocean Development & International Law*, 36 (2005) pp. 389-381, p. 370.

ents Sea before the signing of UNCLOS 1982 that set provisional arrangement on overlapping EEZ.³⁰

countries to claim a limit of up to 200 miles encourages each country to be able to put its maximum limit.³³ However, the over-

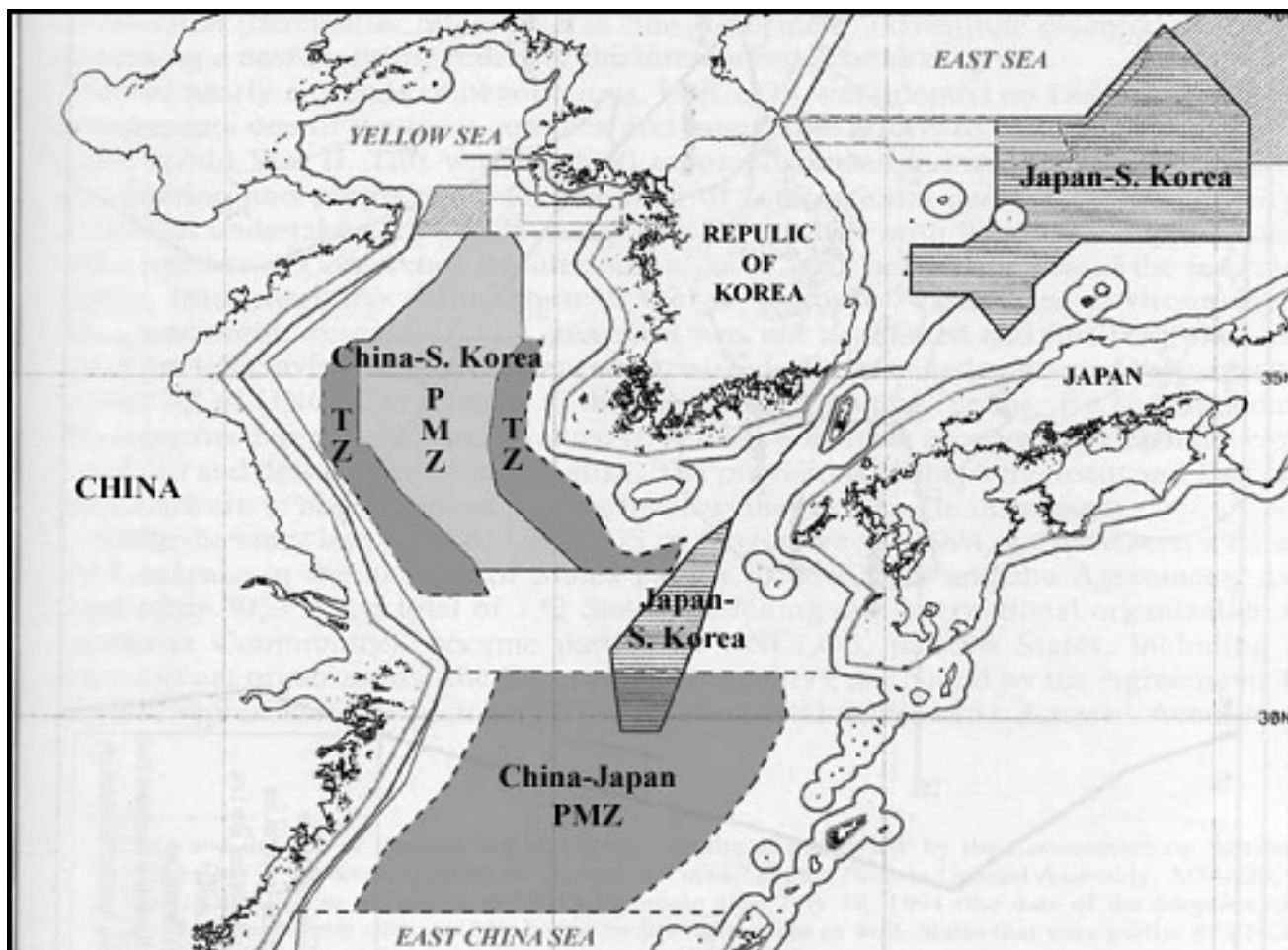


Figure 2 – Agreed Zones of South Korea, China-Japan and Japan-South Korea

Source: Xue, 2004, p. 26.³¹

a. South Korea – China

South Korea and China are two countries bordering in the Yellow Sea.³² The enactment of UNCLOS 1982 which allows

lapping of maritime areas happens. Both countries recognize that talks and negotiations are important to avoid further incidents and disputes. Those two-sea areas

³⁰ Geir Honneland, Compliance in the Barents Sea fisheries: How fishermen account for conformity with rules, *Marine Policy*, 24 (2000) pp. 11-19, p. 11.

³¹ Guifang Xue, *China's response to international fisheries law and policy: national action and regional cooperation*, PhD thesis, Centre for Maritime Policy, University of Wollongong, 2004, p. 260, <https://ro.uow.edu.au/theses/369/> (accessed 3 March 2020).

³² Clive H. Schofield, Blurring the lines: maritime joint development and the cooperative management of ocean resources, *Issues in Legal Scholarship*, 2009, 8 (1), Article 3: 1-31, p. 22. See also Guifang (Julia) Xue, *loc.cit.*, p. 374.

³³ Clive H. Schofield, *loc.cit.*, p. 2.

are amongst the major locations of fisheries resources. Fishers from both countries catch fishes in the region.

The two-governments do not yet conclude delimitation agreement on the overlapping zone, but they have already signed the provisional agreement in 2000 and came into effect in 2001.³⁴ The talks and negotiations between China and South Korea lasted around 7 (seven) years from 1993 to 2000.³⁵ In general, the agreement is about joint fishing zone.³⁶ The agreement contains establishment of Provisional Measure Zone (PMZ) of intermediate fishing zone in the West Sea, South Sea and the East China Sea, measures for resource protection and conservation, refuge procedural, and the setting up of joint committee on fisheries.³⁷ The agreement signed by the two countries is considered a temporary solution before reaching the final word on delimitation.

The signed agreement is believed to be the basis for preventing and overcoming illegal unreported and unregulated (IUU) fishing as well as strengthening conservation of fish stocks for food security for

both countries. Before South Korea and China provisionally agreed on Provisional Measures Zone, IUU fishing was very often conducted.³⁸ Fishers from either South Korea or China often illegally entered into their respective waters. This situation led to overfishing and also incidents between fishers, sometimes backed up by home country coastal guard and the neighboring coastal guard.³⁹

South Korea and China have enforced the agreement. Maritime agencies from the two countries jointly conduct patrol in the Provisional Measure Zone.⁴⁰ Fishers from both countries are permitted to catch fish with the maximum allowable quotas, fishing period and zones.⁴¹ Fishers from other than the two-countries are not allowed to catch fish in that zone. In the event of a violation conducted by fisher from either China or South Korea, the neighboring country's maritime agency has the authority to capture and then coordinate with the maritime agency of the fisher's home country to repatriate them after the latter agency submit appropriate bond or other security.⁴² The process of law enforcement

³⁴ Ministry of Foreign Affairs Republic of Korea, "Korea-China Fisheries Agreement Comes into Effect," Press Releases, 29 June 2001, http://www.mofa.go.kr/eng/brd/m_5676/view.do?seq=296187&srchFr=&srchTo=&srchWord=OK&srchTp=&multi_itm_seq=0&itm_seq_1=0&itm_seq_2=0&company_cd=&company_nm=&page=838&titleNm= (accessed on 1 March 2020).

³⁵ Suk Kyoong Kim, *Maritime Disputes in Northeast Asia: Regional Challenges and Cooperation* (Leiden: Koninklijke Brill NV, 2017), p. 124.

³⁶ Guifang (Julia) Xue, *loc.cit.*, p. 374.

³⁷ Clive H. Schofield, *Blurring the lines: maritime joint development and the cooperative management of ocean resources*, *Issues in Legal Scholarship*, 2009, 8 (1), Article 3: 1-31, p. 22. See also Guifang (Julia) Xue, *loc.cit.*, p. 374.

³⁸ Suk Kyoong Kim, *Illegal Chinese Fishing in the Yellow Sea: A Korean Officer's Perspective*, *Journal of East Asia and International Law*, 2012, 5(2): pp. 455-477, p. 476.

³⁹ Guifang (Julia) Xue, *loc.cit.*, p. 371.

⁴⁰ Guifang Xue, *loc.cit.*, p. 210.

⁴¹ Suk Kyoong Kim, *loc.cit.*, p. 461 & 462.

⁴² *Ibid.*, p. 461.

is subject to decision of China-Korea joint fishery committee and each country's enforcement agency can only exercise law enforcement in limited extent.⁴³

b. China – Japan

China and Japan are two countries bordering in the East China Sea.⁴⁴ Dispute amongst them started in 1950s when Japan suspended "MacArthur Line" in 1952 to encourage more fishing beyond the line.⁴⁵ China was not happy to see many Japanese vessels when it also encouraged their citizen to fish along the Chinese waters.⁴⁶ They realized that the dispute would be overcome. However, both countries did not have any diplomatic ties at that time after the World War II. Non-governmental organizations from both parties were used to negotiate the boundaries.⁴⁷ Anyhow, the organizations did not have authority level as well as the states. Even they reached an agreement, the implementation could only be applied for themselves and would not bind the state as well its citizens. Hence, the two-government finally normalized their diplomatic ties and concluded

the agreement on fisheries resources in 1975.⁴⁸

The enactment of UNCLOS 1982 affected the implementation of the 1975's agreement. Similar to South Korea-China, Japan-China also cannot exercise its 200-miles EEZ to the outer limits because their borders overlap one another.⁴⁹ Both governments realized that delimitation agreements would never been easy and smooth to achieve again. This time is due to their different views on the method of maritime delimitation.⁵⁰ The existence of Article 74(3) of UNCLOS 1982 was used well by China and Japan so that they could claim the overlapping areas through joint management on fisheries. The historical background of relations between the two countries, especially related to World War II, often colors the process of negotiations and the implementation of the provisional agreement.⁵¹

Japan and China signed provisional agreement to jointly managed overlapping EEZ in the East China Sea on 1997 and replacing the agreement signed in 1975.⁵² The agreement entered into force in 2000, known as Sino-Japanese Agreement, has

⁴³ *Ibid.*, p. 462.

⁴⁴ Clive H. Schofield, *loc.cit.*, p. 22.

⁴⁵ Guenter Weissberg, Recent Developments in the Law of the Sea and the Japanese-Korean Fishery Dispute (Dordrecht: Springer Science+Business Media, 1996), p. 8. See also Zou Keyuan, Sino-Japanese joint fishery management in the East China Sea, *Marine Policy* 27 (2003): pp. 125-142, p. 126.

⁴⁶ *Ibid.*

⁴⁷ *Ibid.*

⁴⁸ *Ibid.*, p. 127.

⁴⁹ Please see Figure 2.

⁵⁰ Clive H. Schofield, *loc.cit.*, p. 23-24.

⁵¹ Zou Keyuan, *loc.cit.*, p. 126. See also Mark J. Valencia, The East China Sea Disputes: History, Status and Ways Forward, *Asian Perspective* 38 (2014): pp 183-218, p. 184.

⁵² Clive H. Schofield, *loc.cit.*

five-year term with the condition that the agreement still applies after the expiry date of the first five-year term or afterwards. The party may terminate at any time after the expiry date by giving the other party six month's written notification.⁵³

The main provisions in this Sino-Japanese agreement are conservation and utilization of marine living resources and governing normal operation order at sea.⁵⁴ They both agreed to utilize scientific method to conserve any marine living resources in the East China Sea. In addition to main focus of provisions, the agreement also set the rules of traditional fishery activity, fish catch permit, nationality, fishing vessels or boats, fees, allowable catch and the zone for fish capture.⁵⁵ Similar to South Korea-China provisional agreement, the Sino-Japanese agreement establishes Fisheries Joint Committee (FJC) consisting of four members (two from China and two from Japan).⁵⁶

In terms of enforcing the agreement and relevant laws of each country, the agreement allows the maritime authority of each country to arrest other nationals' fishers.⁵⁷ Either China or Japan must promptly inform through appropriate chan-

nel about actions and punishment that will be taken on the fishers. Fishing boats or vessels and their crews shall be released and repatriated as soon as bond or other security guarantee has been posted.⁵⁸

The Sino-Japanese agreement, anyhow, is not applicable to nationals other than the two-countries according to Vienna Convention on the Law of Treaties.⁵⁹ It means that other foreign vessels and nationalities may enter provisional measure zone or conduct fishing in that area. This includes South Korea fishers. Nonetheless, relevant laws in each Japan and China territory shall be obeyed by foreign vessels.

c. South Korea- Japan

Different to South Korea-China provisional agreement and Sino-Japanese agreement that each consisted of one overlapped EEZ, South Korea and Japan had overlapped maritime boundaries at least in the East Sea (Korea)/the Sea of Japan (Japan) and the East China Sea.⁶⁰ South Korea and Japan had already provisional arrangement establishing joint development zone since 1974.⁶¹ The arrangement set the rules on joint managing

⁵³ Guifang Xue, *loc.cit.*, p. 372. See also Sino-Japanese Agreement inside Zou Keyuan, *loc.cit.*, p. 140.

⁵⁴ Zou Keyuan, *loc.cit.*, p. 133.

⁵⁵ *Ibid.*, p. 133-134 & 138. See also David Rosenberg, Managing the Resources of the China Seas: China's Bilateral Fisheries Agreement with Japan, South Korea, and Vietnam, *The Asia-Pacific Journal*, 2005, 3 (6): 1-5, p. 3.

⁵⁶ Article 3 and Article 11 Sino-Japanese Agreement. See Zou Keyuan, *loc.cit.*, p. 138-139. See also Guifang (Julia) Xue, *loc.cit.*, p. 373.

⁵⁷ Zou Keyuan, *loc.cit.*, p. 139.

⁵⁸ *Ibid.*

⁵⁹ Guifang (Julia) Xue, *loc.cit.*, p. 376.

⁶⁰ Please see Figure 1.

⁶¹ Clive H. Schofield, *loc.cit.*, p. 12.

on natural resources that was more focus on hydrocarbon in the continental shelf in the East China Sea.⁶² The agreement also mentioned about fishing but not as a major rule.

In terms of fisheries cooperation, South Korea and Japan signed an agreement nine years before the 1974-agreement (in 1965).⁶³ However, Japan abrogated unilaterally the agreement in 1998.⁶⁴ It is needed for the two countries to re-arrange fisheries cooperation based on the rule in UNCLOS and to focus more on the area around Tok-Do/Takeshima near the East Sea/Sea of Japan.⁶⁵ They realized that they still adhere to their respective methods in determining maritime delimitation.⁶⁶ It did not take long for the two countries to enter into a new provisional agreement.

In January 2000, South Korea and Japan concluded provisional arrangement on joint fisheries management. The South Korea-Japan agreement covers two disputed maritime areas on fishing consisting the East Sea/Sea of Japan and the South

of Jeju Island.⁶⁷ The two countries set interim maritime zone on the two disputed areas. The agreement set the rules of controlling Illegal, Unreported and Unregulated (IUU) fishing, establishing Joint Fishing Committee, temporary outer limit of EEZ, fishing in restricted zone and relevant domestic applicable in the zone.⁶⁸

d. Russia - Norway

Another fisheries cooperation that is important to be looked into and studied about is the fisheries cooperation in Europe. One very good collaboration is between Russian Federation and Norway.⁶⁹ The two countries entered into two different agreements concerning activities in the Barents Sea. The first bilateral agreement between the two countries was signed on 11 April 1975 regarding cooperation in the fisheries sector. The second one was signed on 15 October 1976. The latter concerns about mutual fisheries relations.⁷⁰ In contrast to fisheries cooperation in East Asia which was originally due

⁶² *Ibid.*

⁶³ Korea Maritime Foundation, "Marine Territory: Korea-Japan Fisheries Agreement and Maritime Boundaries," <https://www.ilovesea.or.kr/eng/resour/territory4.do> (accessed 2 March 2020).

⁶⁴ *Ibid.* See also Sun Pyo Kim, *Maritime Delimitation and Interim Arrangement* (Leiden: Koninklijke Brill NV, 2004), p. 252.

⁶⁵ Jon M. Van Dyke, *The Republic of Korea's Maritime Boundaries*, the *International Journal of Marine and Coastal Law*, 2003, 18 (4): 509-540.

⁶⁶ Lee Chang-Wee, "Maritime Boundary Delimitation Around the Korean Peninsula and its Implication for Naming Issues," p. 80-81, <http://www.eastsea1994.org/data/bbsData/14910990431.pdf> (accessed 29 February 2020).

⁶⁷ Kim Wonhee, *Time to End the Tragedy of the Commons: Establishing Regional Fisheries Management Mechanism in Northeast Asia*, 42nd Annual Conference of the COLP, 24-26 May 2018, Beijing China, <https://colp.virginia.edu/sites/colp.virginia.edu/files/beijing-kim.pdf>, accessed on 3 March 2020, p. 7.

⁶⁸ Korea Maritime Foundation, *loc.cit.*

⁶⁹ Geir Honneland (1), *Enforcement Co-operation between Norway and Russia in the Barents Sea Fisheries*, *Ocean Development & International Law*, 2000, 31 (3): 249-267, p. 250. See also Geir Honneland (2), *Compliance in the Barents Sea fisheries: How fishermen account for conformity with rules*, *Marine Policy*, 2000, 24: pp 11-19, p. 11.

⁷⁰ Geir Honneland (1), *loc.cit.*, p. 252. Please see Andreas Ostaghen, *Managing Conflict at Sea: the Case of Norway and Russia in the Svalbard Zone*, *Artic Review on Law and Politics*, 2018, 9: pp 100-123, p. 106-107. See also Geir

to overlapping EEZ and Continental Shelf in their regional oceans, the cooperation between the Russian Federation and Norway is solely for fisheries matter and it is independent from the issue of maritime delimitation. Nevertheless, the EEZ dispute between the two countries does exist but was not brought into the agreement.⁷¹

Honneland states that the Barents Sea covers parts of the Nordic Ocean that is lying between North Cape on the Norwegian mainland, South Cape on the Spitzbergen Island of the Svalbard Archipelago, and the Russian archipelagos of Novaya Zemlya and Franz Josef Land.⁷² The Barents Seemap is depicted in Figure 3. The Sea is rich with fisheries resources such as cod, haddock, capelin, redfish, blue whiting, Greenland halibut and other species.⁷³ These stocks are the target of fishers and surrounding

countries for food and economic security. Norway and Russia are heavily dependent on these stocks. However, both countries also concern about the protection and conservation of living stock against over-fishing.

A distribution quota of 50:50 for cod was agreed to be allocated each for Russia and Norway.⁷⁵ Total Allowable Catch (TAC)

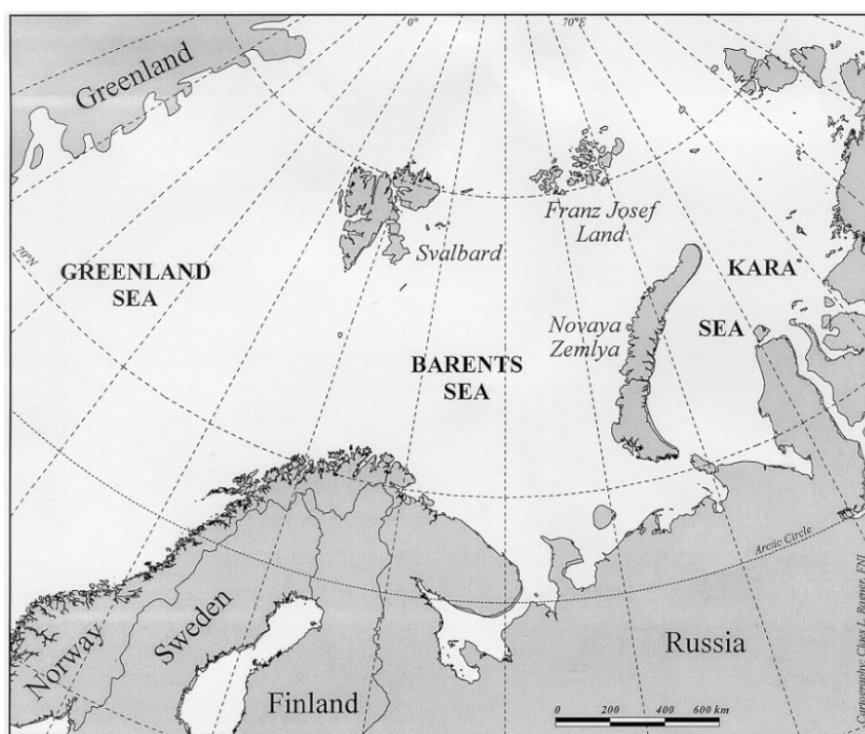


Figure 3 – Maps of Barents Sea

Source: Geir Honneland (2000).⁷⁴

Ulfstein, the Legal Status of Rights to the Resources in the Barents Sea, Chapter, 147-154: inside Erling Berge Derek Ott and Nils Chr. Stenseth (Ed.), *Law and the Management of Divisible and Non-Excludable Renewable Resources*, Oslo, Norway: the Norwegian Research Council, 1994, p. 148.

⁷¹ Division of Ocean Affairs and the Law of the SEA Office of Legal Affairs, *loc.cit.*, p. 84.

⁷² Geir Honneland (2), *loc.cit.*

⁷³ Andreas Ostaghen, *loc.cit.*, p. 107. See Kathleen A. Miller and Gordon R. Munro, Climate and Cooperation: A New Perspective on the Management of Shared Fish Stocks, *Marine Resources Economics*, 2004, 19: pp. 367-393, p. 388. Please see also Geir Honneland (3), Arctic Politic, the Law of the Sea and Russia Identity (Hampshire: Palgrave Macmillan, 2014), p. 10.

⁷⁴ Geir Honneland, *loc.cit.*, p. 251.

⁷⁵ Geir Honneland (4), Norway and Russia: Bargaining Precautionary Fisheries Management in the Barents Sea, *Artic Review on Law and Politics*, 2014, 5 (1): pp. 75-99, p. 76. See also Trond Bjørndal and Marko Lindroos, Co-

is also limited based on a precautionary approach.⁷⁶ Overfishing happened in the early 1990s, by Russian vessels, has encouraged Norway to ask Russia to jointly maintain and conserve the Barents Sea properly. The two-countries then formed the Permanent Russian-Norwegian Committee for Management and Enforcement Co-operations (Permanent Committee) on the Fisheries Sector in 1993.⁷⁷ The overfishing was still the issue between Russian and Norway in mid-2000s.⁷⁸

Cooperation between Russia and Norway somehow is recognized as successful cooperation.⁷⁹ However, differences of opinion, tensions and conflicts mark the implementation of this collaboration.⁸⁰ Overfishing and arrestment of Russian vessels in 1998 are amongst the causes. Nonetheless, the formation of Permanent Committee to support marine living resources by suggesting Total Allowable

Catch (TAC) has helped the stock conservation in the Barents Sea. It is no wonder that Norway and Russia are amongst the countries that have good fishery resource governance based on the survey on 28 countries conducted by Ocean Prosperity Roadmap project.⁸¹ These 28-states surveyed represent governance of 80% of the world total catch.⁸² Russia and Norway have prominent index on the aspect of research, management, enforcement and socioeconomics on fisheries sector as seen in Figure 4.⁸³

The dynamics of relations and cooperation between the two countries which has lasted for almost four decades through provisional agreement finally reached its longtime goal. Russia and Norway signed maritime delimitation agreement and cooperation in the Barents Sea and Arctic Ocean in 2010.⁸⁴ This delimitation covers EEZ and also continental shelf. The

operative and Non-Cooperative Management of the Northeast Atlantic Cod Fishery, Working Paper No. 26/10, Institute for Research in Economics and Business Administration, Bergen, June 2010, p.1.

⁷⁶ Geir Honneland (4), *loc.cit.* Precautionary approach is known as the precautionary principle. It was first appeared in 1980s through the Convention on the Conservation of Antarctic Marine Living Resources 1980 and the UNCLOS 1982. The principle encourages state parties to protect the environment irrespective of lack of scientific evidence. Please see Mary George, *Legal Regime of the Straits of Malacca and Singapore* (Singapore: Lexis Nexis, 2008), p. 173.

⁷⁷ Geir Honneland (1), *loc.cit.*, p. 259.

⁷⁸ Geir Honneland (4), *loc.cit.*, p. 95.

⁷⁹ Geir Honneland (2), *loc.cit.* p.2.

⁸⁰ Indra Overland and Andrey Krivorotov, Norwegian-Russian political relations and Barents oil and gas developments, pp. 97-109, inside Anatoli Bourmistrov, et.al., *International Arctic Petroleum Cooperation: Barents Sea Scenarios*, (London and New York: Routledge, 2015), p. 97-99.

⁸¹ Ray Hilborn and Michael Melnychuk, Fisheries Governance Survey: Comparing across Countries and Stocks, chapter, pp. 11-14 inside *Ocean Prosperity Roadmap: Fisheries and Beyond*, A synthesis report on the economic and biological upside of fisheries reform to unlock the value of the oceans, <https://www.oceanprosperityroadmap.org/wp-content/uploads/2015/05/Synthesis-Report-6.14.15.pdf>, accessed on 3 March 2020, p. 12.

⁸² *Ibid.*, p. 11.

⁸³ *Ibid.*, p. 13.

⁸⁴ Thilo Neumann, "Norway and Russia Agree on Maritime Boundary in the Barents Sea and the Arctic Ocean, American Society of International Law (ASIL) Insights, 2010, 14 (34), <https://www.asil.org/insights/volume/14/issue/34/norway-and-russia-agree-maritime-boundary-barents-sea-and-arctic-ocean>

treaty does not only regulate cooperation in the fisheries sector but also cooperation in the hydrocarbon sector within the framework of maritime delimitation.⁸⁵ The 2010-agreement has implications on the certainty of outer limits of EEZ and Continental Shelf for Russia and Norway as well as just leaving last unresolved maritime boundary between Norway and Denmark near Norwegian Svalbard Archipelago and Greenland.⁸⁶

The provisional arrangement on EEZ is based on Law No. 5/1983 on the Exclusive Economic Zone (EEZ Law 1983) which surprisingly was enacted a year after signatory of UNCLOS 1982 but before the convention was ratified. However, EEZ Law 1983 is in line with the EEZ provisions in UNCLOS 1982.

Article 3(2) of Law No. 5/1983 provide the basis for the government to negotiate provisional arrangement with the condition

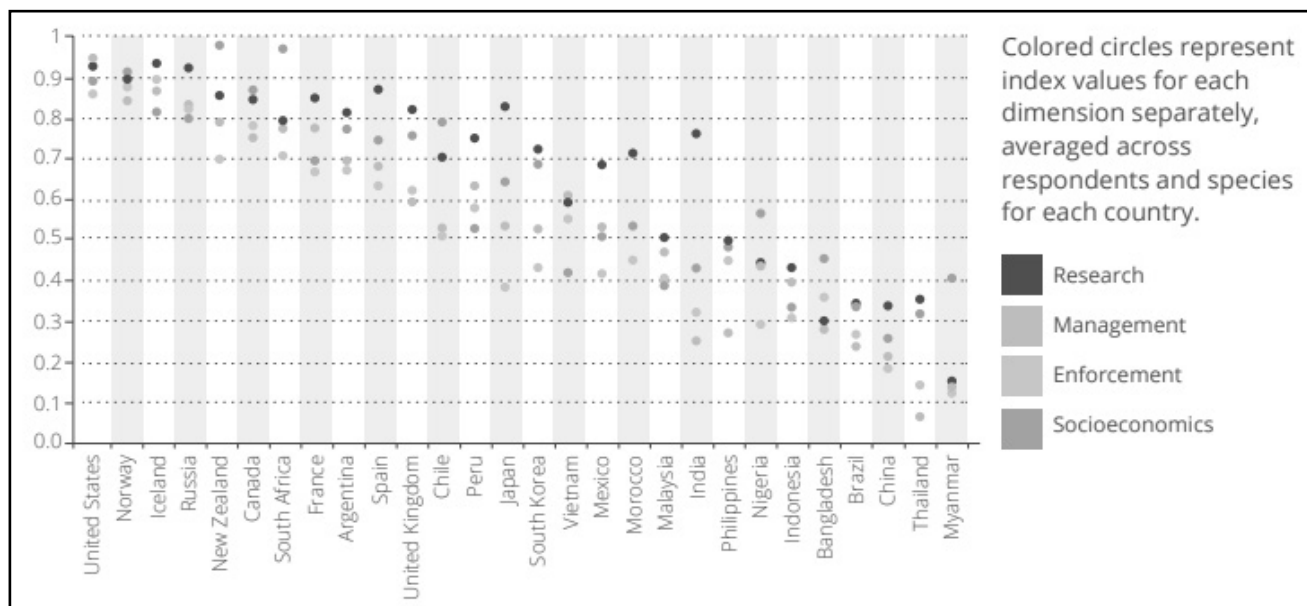


Figure 4 – Marine and Fisheries Governance Index
Source: Ocean Prosperity Roadmap Project (2015).

3. National Regulation relating to Provisional Arrangement

Indonesia has agreed, signed and ratified UNCLOS 1982. The convention was ratified in 1985 through Law No. 17/1985.

that maritime delimitation agreement has not been reached. The Article sets whenever no maritime delimitation on EEZ has been made, the principle of equidistance through the median line will be applied,

(accessed 6 March 2020). See also Treaty between the Kingdom of Norway and the Russian Federation concerning Maritime Delimitation and Cooperation in the Barents Sea and the Arctic Ocean 2010, available at <https://www.un.org/Depts/los/LEGISLATIONANDTREATIES/PDFFILES/TREATIES/NOR-RUS2010.PDF>.

⁸⁵ Thilo Neumann, *loc.cit.* See also Paul Arthur Berkman, Alexander N. Vylegzhanin, and Oran R. Young, *Baseline of Russian Arctic Laws* (Cham, Switzerland: Springer, 2019), p. 79-82.

⁸⁶ *Ibid.*

except provisional agreement has been made with neighboring countries. The rule emphasizes in implementing equidistance principle without prejudice to government plan to arrange provisional measures on disputed areas.

One and only provisional agreement signed was between Indonesia and Australia. The two-countries bilaterally signed an agreement in 1989 (Timor Gap Treaty or TGT). The agreement established provisional zone, depicted in Figure 5, and joint cooperation for development of seabed resources in the Timor Gap including shares in managing the zone.⁸⁷ It also formed a Ministerial Council and a Joint Authority from both countries (bicameral system).⁸⁸ The agreement temporarily ended dispute of two countries for 17 (seventeen) years.⁸⁹ In fact, agreement framework on the Timor Gap was being a model for other states and considered as the most prominent of joint development zone of cooperation.⁹⁰ Since East Timor has been independent from Indonesia, the agreement was automatically ended. The Timor Gap is currently under the authority of the new nation Timor Leste. No provisional arrangement has been made by

Indonesia and neighboring countries after the 1989-agreement.

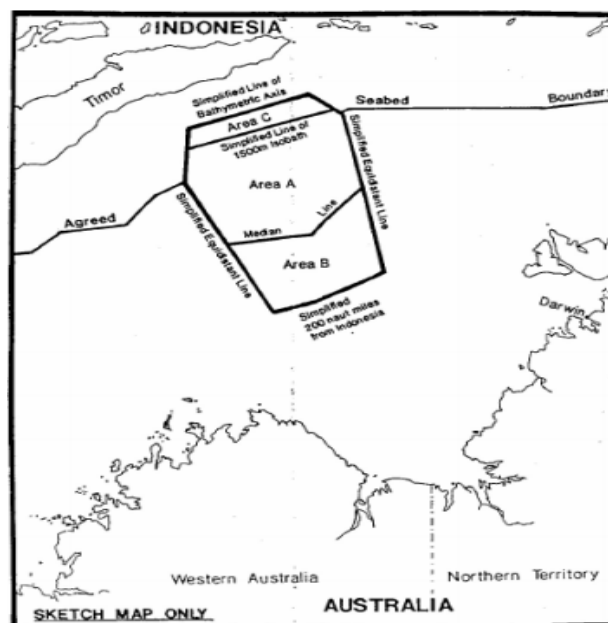


Figure 5 – Provisional Zone based on Timor Gap Treaty 1989

Source: Heiser (2003).⁹¹

Indonesia's experience in negotiating, establishing and exercising provisional arrangements provides lesson learned and opportunities for similar talks and negotiations with Vietnam. In addition to the EEZ Law 1983 and to support provisional arrangement, the government can also base on other main legal frameworks such as Law No. 31/2004 on Fisheries as amend-

⁸⁷ Lian A. Milto, The Timor Gap Treaty as a Model for Joint Development in the Spratly Islands, *American University International Law Review*, 1998, 13 (3), Article 4: 727-764, p. 750. See also Anthony Heiser, East Timor and the Joint Petroleum Development Area, *The Maritime Law Association Australia and New Zealand Journal*, 2003, 54 (17): pp. 54-79, p. 59.

⁸⁸ Muhammad Faiz Aziz, *loc.cit.*, p. 440. Please see Lian A. Milto, *loc.cit.*, p. 755. See also 1989 Treaty Between Australia and the Republic of Indonesia on the Zone of Cooperation in an Area Between the Indonesian Province of East Timor and Northern Australia, 1654 UNTS 105, [1991] ATS 9.

⁸⁹ *Ibid.*, p. 750.

⁹⁰ *Ibid.*, p. 759. See also Division of Ocean Affairs and the Law of the SEA Office of Legal Affairs, *loc.cit.*, p. 17.

⁹¹ Anthony Heiser, East Timor and the Joint Petroleum Development Area, *The Maritime Law Association Australia and New Zealand Journal*, 2003, 54 (17): pp. 54-79, p. 60.

ed by Law No. 45/2009 (Fisheries Law 2004) and Law No. 32/2014 on Maritime (Maritime Law 2014). The Fisheries Law 2004 allows arrangement of fisheries co-operation as well as agreement with foreign countries.⁹² The Maritime Law 2014 set the rules of jurisdictional sovereignty based on applicable regulations and international law.⁹³

4. Important Elements that should be Provided in Provisional Arrangement Between Indonesia and Vietnam

Reflecting on the experiences of other countries in the previous sections, there are lessons that can be applied by the Indonesian government if it desires to continue negotiating provisional arrangement with Vietnam concerning disputed EEZ at the North Natuna Sea. The legal framework for provisional arrangement is surely a treaty. In general, the treaty or agreement consists of: (1) the zone to be jointly managed; (2) joint authority and its tasks as well as its number of members; (3) co-operation in the respective sector (in this case fisheries) such as joint cooperation on marine conservation and governance, fishing quota, fish capture permit, fishing vessels, capture zone, total allowable catch, fishing gear, fees and levies, and rules for other foreign vessels entering the zone; (4) security and law enforcement; (5) applicable law at the zone; and (6) fi-

nancing. At a minimum, government of both countries shall adopt these elements. The government can also modify them or add other necessary elements adjusting with the national interest.

In detail, the six elements of provisional agreement that can be suggested are as follows:

1. The zone. The government should identify and define the zone (or even name it) and its coordinate points to be managed. Option of zoning division (such as Timor Gap Treaty) or open access (such as Russia-Norway) can be discussed and talked by Indonesia and Vietnam. One option made has consequences to subsequent clauses such as applicable law as well as security and law enforcement;
2. Joint Authority. Most of provisional arrangement on joint cooperation establishes joint authority or committee. The structure and formation of joint authority are left to the wishes of the state parties, either in a bicameral form (such as Indonesia-Australia), single joint authority (most of provisional arrangement), or single state management. In the implementation, state parties can agree with each other to establish an additional committee if it is deemed necessary, for example Russia-Norway. For Indonesia itself, the government should identify which agency is appropriate as well as au-

⁹² Article 29 (2) Fisheries Law 2004.

⁹³ Article 7(4) Maritime Law 2014.

thorized to lead the council or joint authority and identify other agencies that have tasks on fisheries, security, maritime and border matters to support the lead agency.

3. Cooperation in the respective sector (in this case fisheries). Cooperation mechanism in East China Sea and Yellow Sea region as well as in the Barents Sea focus on joint cooperation on marine conservation and governance, fishing quota, fish capture permit, fishing vessels, capture zone, total allowable catch,⁹⁴ fishing gear, fees and levies, and rules for other foreign vessels entering the zone (Sino-Japanese agreement is absence for this). Indonesian Fisheries Law 2004 along with its subsidiary regulations has also set the rules on those matters above.
4. Security and law enforcement. Both Indonesia and Vietnam must agree about their own jurisdiction in the zone. This is important not to confuse respective agency or coastal guard in enforcing the agreement and their national law at the zone. The authority or jurisdiction of respective maritime/coastal guard depends on the option the two governments choose, either zoning division or open access. Nevertheless, both countries can agree to initiate joint patrol in the whole zone.

5. Similar to the element of security and law enforcement, applicable law can also depend on the option state parties choose. If zoning division is chosen, Indonesian law can only be applied in, let say, Indonesia zone and vice versa for Vietnam. If open access is chosen, Indonesia and Vietnam can enforce respective applicable laws on the two countries national vessel and their crews. The implementation of applicable law depends on which marine or coastal guard enforce it first on the vessel and its crew.
6. Financing. Both countries must allocate budget and financing for implementing agreement and exercising their authority at the zone. Third-party funding or financing is possible to be raised as long as both countries have mutual consent on it.

Arrangement clauses that will be developed by Indonesia and Vietnam must focus on the protection and conservation of natural resources without compromising the economic interests of both countries. The UNCLOS 1982 sets quite a lot of rules on the marine environment and living resources. Every coastal state in utilizing EEZ must, among others: (1) protect and preserve the marine environment; (2) prevent, reduce and control sea pollution; and (3) control of marine pollution caused

⁹⁴ The term "total allowable catch" does not exist in UNCLOS 1982. However, the regulatory system in this convention allows the application of the TAC concept, which was first introduced through the UNCLOS session in 1975. See Charles Quince, *The Exclusive Economic Zone* (Delaware: Vernon Press, 2019), p. 39.

by technology or the entry of new foreign species into the marine environment.⁹⁵ Both Indonesia and Vietnam must set up a monitoring and evaluation system for environmental control and recovery.

D. Closing

The idea of provisional arrangement proposed by the government as a temporary solution to achieve maritime delimitation on EEZ with Vietnam should be appreciated and supported. Instead, provisional arrangements must also be proposed to other neighboring countries when maritime delimitation agreement is hard to achieve. It is never been easy to conclude such delimitation arrangement.

Experiences from South Korea, China and Japan show how difficult they are even in negotiating provisional arrangement. So is Russia and Norway. Nevertheless, their experiences shall be our lesson to learn. Except China, their successful implementation has made them as prominent countries in marine and fisheries governance.⁹⁶

The examples of frameworks of agreements and institutions in the above-mentioned countries can be adopted for the government in talking and discussing with Vietnam in the context of fisheries. Last, important elements of a bilateral treaty or provisional arrangement as discussed earlier, surely, can be an input for the government for further study as well as mak-

ing a plan and strategy for negotiating with Vietnam.

Bibliography

1. Adolf, Huala. 2004. *Hukum Penyelesaian Sengketa Internasional (Law of International Disputes)*. Bandung: Sinar Grafika.
2. Akib, Muhammad. 2014. *Hukum Lingkungan Perspektif Global dan Nasional (Environmental Law: Global and National Perspectives)*. Jakarta: Rajawali Pers.
3. Badan Pusat Statistik (1). 2018. *Statistical Yearbook of Indonesia 2018*. Jakarta: Badan Pusat Statistik.
4. Badan Pusat Statistik (2). 2019. *Statistical Yearbook of Indonesia 2019*. Jakarta: Badan Pusat Statistik.
5. Berge, Erling, Derek Otts, and Nils Chr. Stenseth (eds.). 1994. *Law and Management of Divisible and Non-Excludable Renewable Resources*. Oslo: The Norwegian Research Council.
6. Berkman, Paul Arthur, Alexander N. Vylegzhanin, and Oran R. Young. 2019. *Baseline of Russian Arctic Laws*. Cham, Switzerland: Springer
7. Bourmistrov, Anatoli, et.al. (eds.). 2015. *International Arctic Petroleum Cooperation: Barents Sea Scenarios*, London and New York: Routledge.
8. Division of Ocean Affairs and the Law of the Sea Office of Legal Affairs. 2000. *Handbook on the Delimitation of Maritime Boundaries*. New York: United Nations.
9. Fietta, Stephan and RobinCleverly. 2016. *A Practitioner's Guide to Maritime Boundary Delimitation*. Oxford: Oxford University Press.

⁹⁵ Muhammad Akib, *Hukum Lingkungan Perpspektif Global dan Nasional (Environmental Law: Global and National Perspectives)* (Jakarta: Rajawali Pers, 2014) p. 40.

⁹⁶ Ray Hilborn and Michael Melnychuk, *loc.cit.*, p. 11.

10. George, Mary. 2008. *Legal Regime of the Straits of Malacca and Singapore*. Singapore: Lexis Nexis.
11. Honneland, Geir. 2014. *Arctic Politic, the Law of the Sea and Russia Identity*. Hampshire: Palgrave Macmillan.
12. Kim, Suk Kyoon. 2017. *Maritime Disputes in Northeast Asia: Regional Challenges and Cooperation*. Leiden: Koninklijke Brill NV.
13. Partiana, I Wayan. 2014. *Hukum Laut Internasional dan Hukum Laut Indonesia (International Law of the Sea and Indonesian Law of the Sea)*. Bandung: Yrama Widya.
14. Quince, Charles. 2019. *The Exclusive Economic Zone*. Wilmington, Delaware: Vernon Press.
15. Trang, Tran Truong Thuy and Le Thuy. 2015. *Power, Law, and Maritime Order in the South China Sea*. London: Lexington Books.
16. Weissberg, Guenter. 1996. *Recent Developments in the Law of the Sea and the Japanese-Korean Fishery Dispute*. Dordrecht: Springer Science+Business Media.
17. Aziz, Muhammad Faiz. 2018. "Developing Joint Development Zone in Disputed Maritime Boundaries." *Indonesian Journal of International Law* 15 (4): 432-448. doi:<http://dx.doi.org/10.17304/ijil.vol15.4.735>.
18. Dyke, Jon M. Van. 2003. "The Republic of Korea's Maritime Boundaries." *The International Journal of Marine and Coastal Law* 18 (4): 509-540. doi:[10.1163/157180803322711001](https://doi.org/10.1163/157180803322711001).
19. Heiser, Anthony. 2003. "East Timor and the Joint Petroleum Development Area." *The Maritime Law Association Australia and New Zealand Journal* 54 (17): 54-79.
20. Honneland, Geir. 2000. "Compliance in the Barents Sea fisheries: How fishermen account for conformity rules." *Marine Policy* 24: 11-19.
21. Honneland, Geir. 2000. "Enforcement Co-operation between Norway and Russia in the Barents Sea Fisheries." *Ocean Development & International Law* 31 (3): 249-267.
22. Honneland, Geir. 2014. "Norway and Russia: Bargaining Precautionary Fisheries Management in the Barents Sea." *Arctic Review on Law and Politics* 5 (1): 75-99.
23. Kim, Suk Kyoon. 2012. "Illegal Chinese Fishing in the Yellow Sea: A Korean Officer's Perspective." *Journal of East Asia and International Law* 5 (2): 455-477. doi:[10.14330/jeail.2012.5.2.07](https://doi.org/10.14330/jeail.2012.5.2.07).
24. Bjorndal, Trond and Marko Lindroos. 2010. "Cooperative and Non-Cooperative Management of the Northeast Atlantic Cod Fishery." Bergen: Institute for Research in Economics and Business Administration.
25. Neumann, Thilo. 2010. "Norway and Russia Agree on Maritime Boundary in the Barents Sea and the Arctic Ocean." *American Society of International Law (ASIL) Insights* 14 (34). Accessed March 6, 2020. <https://www.asil.org/insights/volume/14/issue/34/norway-and-russia-agree-maritime-boundary-barents-sea-and-arctic-ocean>.
26. R. Kurniaty, Ikaningtyas, dan P. A. Ruslianto. 2018. "Analysis on traditional fishing grounds in Indonesia's Natuna water under International Law." *IOP Conference Series: Earth and Environmental Science*. IOP Publishing. 012039.
27. Rosenberg, David. 2005. "Managing the Resources of the China Seas: China's Bilateral Fisheries Agreements with Japan, South Korea, and Vietnam." *The Asia-Pacific Journal* 3 (6): 1-5.
28. Schofield, Clive H. 2009. "Blurring the lines: maritime joint development and

- the cooperative management of ocean resources." *Issues in Legal Scholarship*. Vol. 8. no. 1, Article 3.
29. Valencia, Mark J. 2014. "The East China Sea Disputes: History, Status, and Ways Forward." *Asian Perspective* 38: 183-218.
 30. Wonhee, Kim. 2018. "Time to End the Tragedy of the Commons: Establishing Regional Fisheries Management Mechanism in Northeast Asia." *42nd Annual Conference of the COLP*. Beijing, China. 7. Accessed March 3, 2020. <https://colp.virginia.edu/sites/colp.virginia.edu/files/beijing-kim.pdf>.
 31. Xue, Guifang (Julia). 2005. "Bilateral Fisheries Agreements for the Cooperative Management of the Shared Resources of the China Sea: A Note." *Ocean Development & International Law* 36:369-381.
 32. Xue, Guifang. 2004. "China's response to international fisheries law and policy: national action and regional cooperation." *PhD Thesis*. Centre for Maritime Policy, University of Wollongong. <https://ro.uow.edu.au/theses/369>.
 33. Agusman, Damos Dumoli and GulardiNurbintoro. 2018. *Hard work continues to settle maritime borders*. December 13. Accessed February 28, 2020. <https://www.thejakartapost.com/academia/2018/12/13/hard-work-continues-to-settle-maritime-borders.html>.
 34. Indonesian Ministry of Foreign Affairs. 2019. *Indonesia and Viet Nam Urge the EEZ Delimitation Settlement and Maritime Partnership Improvement*. July 31. Accessed February 20, 2020. <https://kemlu.go.id/portal/en/read/497/berita/indonesia-and-viet-nam-urge-the-eez-delimitation-settlement-and-maritime-partnership-improvement>.
 35. Keyuan, Zou. 2003. "Sino-Japanese joint fishery management in the East China Sea." *Marine Policy* 27: 125-142.
 36. Korea Maritime Foundation. 2016. *Marine Territory: Korea-Japan Fisheries Agreement and Maritime Boundaries*. Accessed March 2, 2020. <https://www.ilovesea.or.kr/eng/resour/territory4.do>.
 37. Mardiasuti, Aditya. 2018. *Indonesia reported 16,056 islands with name to UN*. Detik News. May 5. Accessed March 5, 2020. <https://news.detik.com/berita/d-4005694/indonesia-laporkan-16056-pulau-bernama-ke-pbb>.
 38. Hilborn, Ray and MichaelMelnychuck. n.d. "Fisheries Governance Survey: Comparing Across Countries and Stocks." In *Ocean Prosperity Roadmap: Fisheries and Beyond*, edited by California Environmental Associates, 11-14. Ben School of Environmental Science and Management University of California Santa Barbara. Accessed March 3, 2020. <https://www.oceanprosperityroadmap.org/wp-content/uploads/2015/05/Synthesis-Report-6.14.15.pdf>.
 39. Milto, Lian A. 1998. "The Timor Gap Treaty as a Model for Joint Development in the Spratly Islands." *American University International Law Review* 13 (3): 727-764.
 40. Ministry of Foreign Affairs Republic of Korea. 2001. *Korea-China Fisheries Agreement Comes into Effect*. June 29. Accessed March 1, 2020. http://www.mofa.go.kr/eng/brd/m_5676/view.do?seq=296187&srchFr=&srchTo=&srchWord=OK&srchTp=&multi_itm_seq=0&itm_seq_1=0&itm_seq_2=0&company_cd=&company_nm=&page=838&titleNm=.
 41. Miller, Kathleen A. and Gordon R. Munro. 2004. "Climate and Cooperation: A New Perspective on the Management of

- Shared Fish Stocks." *Marine Resources Economics* 19: 367-393.
42. Septiari, Dian. 2019. *Indonesia, Vietnam Speed Up EEZ Delimitation*. June 24. Accessed February 15, 2020. <https://www.thejakartapost.com/seasia/2019/06/24/indonesia-vietnam-speed-up-eez-delimitation.html>.
43. Wee, Lee Chang. n.d. *Maritime Boundary Delimitation Around the Korean Peninsula and Its Implication for Naming Issues*. Accessed February 29, 2020. <http://www.eastsea1994.org/data/bbs-Data/14910990431.pdf>.
44. ASEAN. 1976. "Treaty of Amity and Cooperation in Southeast Asia." Denpasar: ASEAN, February 24. <https://asean.org/treaty-amity-cooperation-southeast-asia-indonesia-24-february-1976/>.
45. Convention on the Law of the Sea, Dec. 10, 1982, 1833 UNTS 397.
46. Law No. 5/1983 on EEZ (EEZ Law 1983).
47. Law No. 31/2004 on Fisheries as amended with Law No. 45/2009 (Fisheries Law 2004).
48. Ministry of Foreign Affairs of Indonesia. 2003. "Agreement between the Government of the Republic of Indonesia and the Government of the Socialist Republic of Vietnam concerning the Delimitation of the Continental Shelf Boundary." *Treaty Room: List of Treaties Concluded by Indonesia*. <https://treaty.kemlu.go.id/apisearch/pdf?filename=VNM-2003-0021.pdf>.
49. Treaty Between Australia and the Republic of Indonesia on the Zone of Cooperation in an Area Between the Indonesian Province of East Timor and Northern Australia, 1654 UNTS 105, [1991] ATS 9.
50. Treaty between the Kingdom of Norway and the Russian Federation concerning Maritime Delimitation and Cooperation in the Barents Sea and the Arctic Ocean 2010, available at <https://www.un.org/Depts/los/LEGISLATION-ANDTREATIES/PDFFILES/TREATIES/NOR-RUS2010.PDF>.

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