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International Environment Policy: Dispute of Indonesia's Timor Sea due to The Montara Oil Spill (Australia)

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ABSTRACT. Sea is one of the greatest provider of natural resources for human. The pollution of the sea will harm humans, especially for those who seek livelihoods at the sea. The oil spill incident at sea caused by PTTEP had negative impacts on the aquatic ecosystem in Timor and on other people there. The Indonesian government also acted to ask for compensation by negotiations. To date, negotiations have not yielded results because the guilty parties were unable to compensate according to Indonesia's request. In the end, Indonesia will take legal action to resolve this dispute.

Keywords: Environmental Dispute, Montara, Negotiation

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1. Introduction

The environment is an important component in human life. In addition to being a place to live, the environment provides natural resources that fulfill human needs. One part of the environment is the sea. The sea has a big role in providing unlimited natural resources for humans. Management of marine resources provides great benefits for humans. However, in the management of the marine environment, of course, it has an impact on the marine environment itself. To be able to maintain and preserve these resources, one of them is to pay attention to the protection and preservation of the marine environment.

Therefore, a tool that can control the parties who manage the marine environment is needed, such as legal instruments that able regulate and assist in the preservation of the marine environment. One of the biggest problems in preserving the marine environment is pollution. Pollution of the marine environment is getting more and more attention from the eyes of the international community. This is because now the impact caused by the activities of a country in managing the sea is starting to interfere with the availability of these natural resources both for the coastal country itself and for other countries in this case are neighboring countries that intersect their coastlines.

A little pollution may not be too much of a problem for coastal countries and other countries because the sea still has the ability to clean itself, while maintaining the function of the sea itself. However, along with increasing technology, the use of the sea is getting higher and this results in the entry of new substances into the sea, accumulated with the substances that previously existed, resulting in a buildup that makes the sea dirty and decreases in quality so that it affects the usability and function. from the sea itself.

The development of oil refineries in the territory of Indonesia is growing rapidly in accordance with exploration of mining resources data in Indonesia. Currently, Indonesia has ten oil refineries, both owned by PT Pertamina (Persero) and other private companies with a total oil refinery processing capacity of 1.156 million barrels per day. Indonesia has high mineral resources. This has prompted the establishment of many oil refineries at various points in the land area, especially the Indonesian sea.



Fig. 1 PTTEP logo

PTTEP is a Thai petroleum exploration company which was established on June 20, 1985 in accordance with the cabinet's desire to establish a highly flexible organization to manage oil exploration and production in order to provide maximum benefit to the Thai state. For more than 30 years, PTTEP has invested in petroleum exploration and production projects primarily in Southeast Asia, the Middle East, North Africa, Australasia and North America. In addition, PTTEP has introduced non-conventional E&P businesses in the company's operations, such as floating liquefied natural gas and also investing in the discovery of new strategies and technologies to increase production volume and petroleum reserves as well as to increase the company's strength.

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Fig. 2 Montara's oil station

The function of the oil refinery itself is to process crude oil by distillation and purification into petroleum products that are useful and can be used directly or other products that become raw materials for industry. PTTEP Australasia from Australia is one of the companies that collaborate in the management of mineral resources in the form of oil in Indonesia. In this case, they built the Montara oil refinery in the East Nusa Tenggara region, Indonesia. In the follow-up case, there was an incident of an oil spill originating from the Montara refinery that polluted the Indonesian Timor Sea.

The oil spill incident started with a system failure at the oil refinery which then leaked and caused an explosion. The cause of the oil spill was due to a leak at the bottom of the oil drilling point. This incident was recorded on August 21, 2009. The explosion of an oil refinery spilled millions of liters of gallons of oil into the Timor Sea, causing pollution of marine ecosystems.

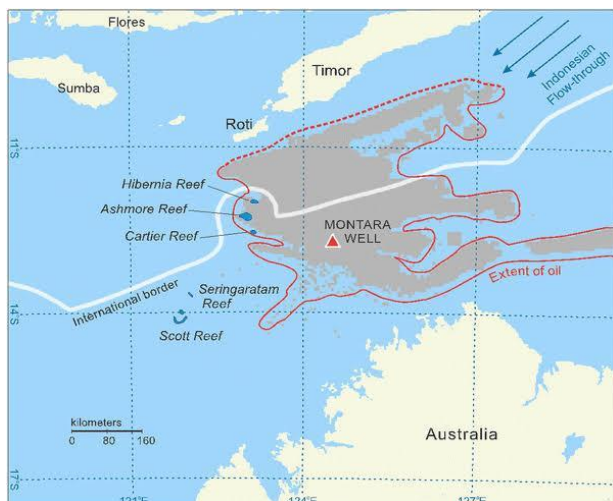


Fig. 3 oil spill map

The Montara oil well is 700 km from the city of Darwin, Northern Australia. This location is also only 250 km to the island of Rote in East Nusa Tenggara. This platform spilled 23 million liters of oil for 74 days, from August to November. This oil spill spread to the open sea area of 92 square kilometers and damaged the coast in 13 districts and cities in East Nusa Tenggara (NTT), as well as destroying the lives of fishermen and seaweed farmers.

This oil spill problem causes damage to the marine ecosystem and ecology. In addition, there are also a number of toxic chemicals that causes itching on the skin and the

mysterious death of seaweed farmers in the village of Lifuleo. This condition is exacerbated by the action of spraying dispersant by the Australian Maritime Safety Authority to sink oil spills to the seabed, resulting in very severe oil sedimentation, hence require greater efforts to restore the situation. Moreover, there is no technology that can throw oil sediments from the seabed quickly. This case refers to the case of oil pollution from the Exxon Valdez tanker in the Gulf of Alaska, USA in 1989. This case has caused prolonged damage until now.

2. Materials and Methods

This research is a normative legal research by examining a rule, principles, and legal doctrines related to the problems in this research to produce an argument (Astuti et al. 2018). In this study, researchers examine aspects of international dispute resolution on pollution caused by the Montara oil spill in the Timor Sea, by examining aspects of international dispute resolution, it is hoped that it can help the government and the Indonesian people, especially people affected by pollution.

The approach used is a statutory approach, a conceptual approach, and a case approach. In this case, the Government of Indonesia and the Government of Australia resolved the dispute through negotiation. This method was chosen because both parties realized that the two countries had links and interests in the management of the marine environment. Responsibilities carried out by the Australian side include carrying out emergency response actions, conducting monitoring, and financing monitoring from the Australian side. In addition, the Australian Government has also established a commission of inquiry for the Borthwick Commission Inquiry to investigate and describe the causes of the Montara incident and to take steps to prevent similar disasters from occurring. As a result of this incident, the PTTEP company can still operate under conditions of comprehensive and strict monitoring.

3. Results and Discussion

The negotiations carried out between Indonesia and Australia are the implementation of the MoU between the Government of Australia and Indonesia on Oil Pollution Preparedness and Response in 1996, where there will be cooperation in exchanging information on incidents of oil pollution at sea, field inspections, and emergency response cooperation such as personnel mobility, logistics, and other equipment. In addition, Indonesia also filed a lawsuit against Australia and the Montara oil field operator PTTEP Australia to provide compensation to Indonesia. The claim was based on the 1969 International Convention on Civil Liability for Oil Pollution Damage. A series of negotiation and advocacy processes for the demands were carried out which resulted in the failure of the Government of Indonesia to obtain claims for their rights from PTTEP (Suleiman. 2015)

Until now, no agreement has been found between the Government of Indonesia and the Government of Australia. So far, Indonesia has prioritized diplomatic methods because the State of Indonesia upholds the principle of good neighbors and strives for the implementation of Article 33 of the United Nations Charter where dispute resolution is carried out by peaceful means. Even so, until now there has not been a way out. If the path of negotiation and diplomacy is closed, international legal channels under ITLOS can be used in this case (Meinarni, 2016). No way out was found between the two

parties because PTTEP only agreed to pay compensation of US\$5 million, while the losses caused by PTTEP did not match the nominal value. Therefore, Indonesia will take legal action to resolve this case. If so far Indonesia has chosen to carry out diplomacy, this time Indonesia will take the court route. The Indonesian government has threatened to report the Australian company, Montara, due to the explosion of the oil well to an international forum if a solution has not been reached. This is a firm action from Indonesia in dealing with environmental pollution that occurs within the jurisdiction of the Indonesian territory (. The trial on October 28-29 2019 involves expert witnesses and the court decision will be issued in mid-2020).

4. Conclusion

The settlement of disputes in the Montara Oil Case involving the Australian Government, Indonesian Government, Thai Government and the company itself, namely PTTEP Australia, was resolved through a negotiation process. However, because the Indonesian side feels that they have not found a bright spot, this time Indonesia will take the matter to court. Unfortunately, until now the settlement of the Montara Oil Case has not

received a satisfactory solution for all parties, because the trial on October 28-29 2019 involving expert witnesses and the court decision will only be issued in mid-2020.

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