



## **EXAMINING DISPUTE SETTLEMENT UNDER THE ASEAN CHARTER: ANALYZES INDONESIA'S HANDLING OF VIOLATIONS IN THE AMBALAT BLOCK DISPUTE AND THE STATUS OF SIPADAN AND LIGITAN ISLANDS.**

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Article	Abstract
<b>Keywords:</b> <i>Territorial disputes; Sipadan &amp; Ligitan Island; ;International Court of Justice (ICJ); UNCLOS;Peaceful resolution</i>	The territorial dispute between India and Malaysia over Pulau Sipadan, Pulau Ligitan and the Ambalat block is a major challenge to regional stability in Southeast Asia. Through conflicting historical and sovereignty claims, these disputes have undermined bilateral arbitration and led to international arbitration, particularly through the International Court of Justice (ICJ). These disputes, governed by international legal frameworks such as the Treaty on Certification and Cooperation (TAC) and the United Nations Convention on the Law of the Sea (UNCLOS), involve complex issues of maritime territorial delimitation and exploitation of resources. However, despite the ICJ decision, the decision-making process was complicated by difficulties in implementing the decision and enforcing the law, particularly with regard to the economic effects on oil and gas reserves. Addressing these challenges requires a multifaceted approach that emphasizes diplomatic dialogue, confidence-building, and strengthening regional cooperation. It is important to reduce problems, stabilize age and promote the well-being of all in South Asia. Effective conflict resolution is essential to maintaining regional peace and security and ensuring the continued progress and development of all parties involved
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## 1. INTRODUCTION

The Association of Southeast Asian Nations (ASEAN) has long struggled with regional conflicts and sought ways to maintain peace and resolve conflicts. In the context of this controversial case, Indonesia's handling of the disputed violations of the Ambalat block and ownership of the Sipadan and Ligitan islands is an important case study. In its formative years, ASEAN did not have in its documents a systematic way of debating decision-making processes. Most treaties concluded between 1967 and 1991 did not include such provisions. The Treaty of Amity and Cooperation (TAC), signed in 1976, is an example of the original founding of ASEAN. The Treaty of Agreement and Cooperation (TAC) is a treaty aimed at political stability and security in the Southeast Asian region. TAC regulates mechanisms for peaceful resolution of conflicts between party countries<sup>1</sup>. Notably, the TAC is the only regional mechanism that deals with disputes between ASEAN and non-ASEAN countries. Over time, ASEAN's dispute resolution mechanisms have evolved in response to geopolitical and economic influences. The 2001 TAC Central Committee Regulations outline procedures for dispute resolution and emphasize negotiation as the first step. If negotiations fail, the parties may go to mediation or conciliation. This is described in Chapter 13, which emphasizes the importance of peaceful negotiations to resolve existing and potential disputes, and prohibits the use of force to resolve disputes. Chapter 15 also provides for arbitration by the Board. This role can be carried out in events where it is deemed that no solution can be obtained from direct negotiations between the two parties to the dispute<sup>2</sup>. The significance of the TAC extends beyond regional boundaries, as non-ASEAN countries have accelerated its implementation, demonstrating their commitment to engagement in the region.

The dispute over the Ambalat Block, an area rich in oil and gas resources, has witnessed tensions between Indonesia and Malaysia<sup>3</sup>. Both countries claim sovereignty over the region, leading to maritime boundary disputes. The International Court of Justice (ICJ) played an important role in resolving the Ligitan and Sipadan dispute, holding that the two islands belong to Malaysia<sup>4</sup>. However, the impact of this decision on the Ambalat dispute

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<sup>1</sup> ASEAN Political Security Society | Portal of the Ministry of Foreign Affairs of the Republic of Indonesia. (n.d.). [https://kemlu.go.id/portal/id/read/121/halaman\\_list\\_lainnya/masyarakat-politik-keamanan-asean#!](https://kemlu.go.id/portal/id/read/121/halaman_list_lainnya/masyarakat-politik-keamanan-asean#!)

<sup>2</sup> Indrawan, J. (2021). Conflict Resolution Mechanisms in ASEAN: ASEAN as a Conflict Facilitator. <https://www.semanticscholar.org/paper/Mekanisme-Resolusi-Konflik-di-ASEAN%3A-ASEAN-Sebagai-Indrawan/d5f72bd04c5857e28de6d96fc6636495b82907b7#citing-papers>

<sup>3</sup> Harruma, I. (2022, September 21). Ambalat Case: Chronology and Resolution. KOMPAS.com. <https://nasional.kompas.com/read/2022/09/22/04200031/kasus-ambalat--kronologi-dan-penyelesaiannya>

<sup>4</sup> Post, J. (2023, September 5). Three countries sign cooperation treaty with ASEAN - Asia & Pacific - The Jakarta Post. The Jakarta Post. <https://www.thejakartapost.com/world/2023/09/05/three-countries-sign-cooperation-treaty-with-asean.html>

remains controversial. Sipadan and Ligitan, which are located in the Sulawesi Sea, are the center of the Indonesia-Malaysia dispute. Indonesia's claim that Sipadan and Ligitan belong to it is based on the agreement between the Netherlands and England in the 1891 Convention concerning colonial territorial boundaries in Kalimantan (Borneo)<sup>5</sup>. However, the ICJ argued that the Convention does not establish allocation lines determining sovereignty over the islands on the northeastern edge. The court studied other rights requested by both countries but ultimately ruled in favor of Malaysia<sup>6</sup>.

ASEAN continues to focus on strengthening the rule of law and strengthening institutions. The ASEAN Protocol on Enhanced Dispute Settlement Mechanisms addresses disputes arising from economic agreements and aims to improve their enforcement. But challenges remain, including balancing national interests, historical claims and regional stability. Finally, Indonesia's handling of the Ambalat blockade dispute and ownership of the Sipadan and Ligitan islands are important lessons for ASEAN's continued efforts to foster legal obligations, maintain peace and resolve issues.

Based on the statement above, the problems statement that are need to be addressed are:

- 1) How have the dispute resolution mechanisms under the ASEAN Charter developed over time?
- 2) What was the beginning of the dispute and Indonesia's steps in dealing with violations that occurred in the Ambalat Block and the Sipadan and Ligitan islands?
- 3) What impact does the International Court's ruling on the Ligitan and Sipadan dispute have on the resolution of the Ambalat blockade dispute between Indonesia and Malaysia?

## **2. RESEARCH METHODOLOGY**

This article is the result of research using a normative legal approach. Approach The author intends to use three approaches: the legal approach, the theoretical approach and the historical approach. This approach examines the legal mechanisms involved in dispute resolution in the ASEAN region. We analyze legal documents such as the ASEAN Charter, the Treaty of Amity and Cooperation (TAC) and other related agreements. This approach examines the theoretical concepts underlying dispute resolution. Topics such as sovereignty, territorial integrity

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<sup>5</sup> Zaenudin, A., & Firdausi, F. A. (2022, November 6). When Kalimantan was split, where did Sipadan and Ligitan go? *tirto.id*. <https://tirto.id/kala-kalimantan-dibelah-sipadan-dan-ligitan-masuk-mana-gyaZ>

<sup>6</sup> Post, J. (2023, September 5). Three countries sign cooperation treaty with ASEAN - Asia & Pacific - The Jakarta Post. *The Jakarta Post*.  
<https://www.thejakartapost.com/world/2023/09/05/three-countries-sign-cooperation-treaty-with-asean.html>

and regional peace are analyzed. This approach examines the evolution of ASEAN's dispute resolution mechanisms from the past to the present. We analyze historical events, court decisions, and policy changes.

Data collection method in this study Legal history of regulatory reform, constitution and regulatory agreements in Indonesia as already mentioned in the background, the Indonesian state adheres to the concept of a formal constitutional state. There is Rule of Law uses the Document (Library) research method, which searches for secondary data such as books, research results, court decisions, and regulations<sup>7</sup>.

Data analysis method in this study, the data collected in the literature will be analyzed using a qualitative descriptive method which is grouping, measuring and testing the data based on basic theoretical concepts, principles and legal regulations analyzed by responses are displayed and available for reply<sup>8</sup>.

### **3. ANALYSIS AND DISCUSSION**

#### **3.1 Development of Dispute Resolution Mechanisms Under the ASEAN Charter**

The development of the dispute resolution mechanism under the ASEAN Charter went through several stages. Initially, ASEAN did not have a dispute resolution mechanism in its instruments.<sup>9</sup> Most agreements signed between 1967 and 1991 did not explicitly include dispute resolution provisions. The Treaty of Friendship and Cooperation (TAC), signed in 1976, reflected ASEAN's initial stance, and affirmed the peaceful resolution of disputes as a fundamental principle, but provided mechanisms to address situations that could disrupt regional peace and harmony<sup>10</sup>. The Treaty of Agreement and Cooperation (TAC) is a document that aims to promote lasting peace, friendship and cooperation. The ASEAN Charter, signed by the leaders of ASEAN member states in 2007, transformed ASEAN from a loose regional organization into a more unified one.<sup>11</sup> The ASEAN Charter codifies general principles in dispute resolution, including dispute resolution mechanisms in the political and security fields. Dispute resolution mechanisms in ASEAN according to the ASEAN Charter include avoiding the use of violence, resolution through direct negotiations, resolution through the High Council, and dispute resolution based on Article 33 paragraph 1 of the UN Charter<sup>12</sup>.

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<sup>7</sup> Zainuddin Ali, Legal Research Methods, (Jakarta: Sinar Graphics), (2016) [105]

<sup>8</sup> Ibid [21]

<sup>9</sup> Woon, W. (2009). The ASEAN Charter Dispute Settlement Mechanisms. The Making of the ASEAN Charter, 69-77. [https://doi.org/10.1142/9789812833914\\_0006](https://doi.org/10.1142/9789812833914_0006)

<sup>10</sup> ASEAN: Conception and Evolution. (2015). The 3rd ASEAN Reader. <https://doi.org/10.1355/9789814620628-002>

<sup>11</sup> The charter asean. <https://asean.org/wp-content/uploads/images/archive/publications/ASEAN-Charter.pdf>

<sup>12</sup> Varetta Giani, "Dispute Settlement in the Political and Security Sector in ASEAN According to the 2007 ASEAN

While affirming the peaceful resolution of disputes as a fundamental principle, the TAC provides a mechanism to address situations that could disrupt regional peace and harmony. TAC has the principles of non-intervention, peaceful dispute resolution, independence & respect for sovereignty. Furthermore, to gain influence of the TAC to other regions, ASEAN decided to allow non-Southeast Asian countries to accede to the agreement and accession by countries outside the region<sup>13</sup>. However, along with the development of relations between ASEAN communities, the potential for disputes remains. Therefore, ASEAN strengthens dispute resolution mechanisms. The ASEAN Protocol on Trade Settlement Procedures (DSM Protocol) is an important tool to ensure the resolution of disputes related to the interpretation or application of the ASEAN Charter and other ASEAN instruments. The protocol includes negotiation, mediation, mediation and arbitration procedures. Ratification of the DSM Protocol will provide ASEAN with a strong legal basis for resolving disputes and strengthen the implementation of the ASEAN Constitution and other ASEAN instruments, which do not have their own dispute resolution mechanisms.

### **3.2 Malaysia-Indonesia Ambalat Block Dispute**

The Ambalat conflict is a territorial dispute between Indonesia and Malaysia centered on the Ambalat Block, an area of the Celebes Sea with significant oil and gas potential. In 1979, Indonesia and Malaysia concluded an agreement designating the Ambalat block as Indonesian territory. However, Malaysia later violated the agreement by including the area on the map. This led Indonesia to reject Malaysia's new map that included the Ambalat block, leading to a dispute over territorial claims between the two countries. Measurements in this area are based on the 1982 United Nations Convention on the Law of the Sea (UNCLOS). According to the 1982 UNCLOS, each country has sovereignty over its exclusive economic zone (EEZ) up to 200 nautical miles from the coast and the continental shelf beyond 200 nautical miles. Since the territorial waters of Indonesia and Malaysia are close to each other, their EEZs and continental shelves overlap. Despite the agreement on the territorial boundaries of the South Malacca Strait and the Celebes Sea, the issue of the maritime boundaries of the Ambalat block has not been resolved.

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Charter," University of Indonesia, 2008.file (ui.ac.id)

<sup>13</sup> Patmi, S. (2021, December 24). What is the Relationship between the Treaty of Amity and Cooperation (TAC), ASEAN and International Law? All pages - Kompasiana.com. COMPASIANA.<https://www.kompasiana.com/patmisri/61c524c017e4ac48a956ef42/apa-hubungannya-the-treaty-of-amity-and-cooperation-tac-asean-dan-hukum-internasional?page=all>

The Ambalat Block, with an area of around 15,235 square kilometers, is in the Sulawesi Sea or Makassar Strait and borders Malaysian waters.<sup>14</sup>

### **3.2.1 Legal Basis for the Ambalat Block Claim**

#### **3.2.1.1 Legal Basis for Malaysian Claims**

Malaysia, under the Essential Powers Act passed in August 1969, defines its territorial sea as a straight line 12 nautical miles from land in accordance with the provisions of the 1958 Convention on the Territorial Sea and the Law of the Sea. region.<sup>15</sup> Pursuant to this Act, Malaysia independently published the Map of Malaysia 1979 on 21 December 1979. Also in December 1979, Malaysia published a new map showing the boundaries of its high claims sea in the Celebes Sea. The map includes an area of the seabed that later became part of Malaysia, the Ambalat Block in Indonesia. Only Malaysia knows the criteria and starting point for border determination. In international relations, a country must disclose the origin and status of its territorial waters for other countries to understand. The 1979 map published by the Malaysian government sparked protests not only in Indonesia but also in the Philippines, Singapore, Thailand, China and Vietnam. This was because it was seen as an attempt to invade another country's territory.<sup>16</sup> For example, the Philippines and China disputed the Spratly Islands. In April 1980, Singapore filed a lawsuit against Pedra Branca (Pulau Batu Puteh). Vietnam, Taiwan, Thailand and the United Kingdom have filed lawsuits against Brunei Darussalam. Therefore, Malaysia's territorial claims as shown on the 1979 map are not recognized by neighbouring countries and the international community. Malaysia, defined as a coastal state by UNCLOS in 1982, can only chart a broad or precise timetable.<sup>17</sup> For this reason, Malaysia should not allow underwater drilling in Sipadan and Ligitan Islands, as Malaysia is not a coastal country. Instead, Malaysia applies Article 121 of UNCLOS. "Except in cases as provided in paragraph 3, the territorial sea, additional zone, exclusive economic zone and continental shelf of an island are determined in accordance with the provisions of this Convention which apply to other land areas<sup>18</sup>18." Malaysia's

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<sup>14</sup>Taufik, M. (2017). Indonesia And Malaysia Border Conflict (Case study: Ambalat Block Dispute. Upi.[https://www.academia.edu/32158429/Konflik\\_Perbatasan\\_Indonesia\\_Dan\\_Malaysia\\_Studi\\_Kasus\\_Sengketa\\_Blok\\_Ambalat](https://www.academia.edu/32158429/Konflik_Perbatasan_Indonesia_Dan_Malaysia_Studi_Kasus_Sengketa_Blok_Ambalat)

<sup>15</sup>Pradana, D. R. (2017). The Ambalat Territory Dispute Between Indonesia And Malaysia Is Reviewed From International Marine Law. [www.academia.edu/33401222/Sengketa\\_Wilayah\\_Ambalat\\_Antara\\_Indonesia\\_Dengan\\_Malaysia\\_Ditinjau\\_Dari\\_Hukum\\_Laut\\_Internasional](https://www.academia.edu/33401222/Sengketa_Wilayah_Ambalat_Antara_Indonesia_Dengan_Malaysia_Ditinjau_Dari_Hukum_Laut_Internasional)

<sup>16</sup> Shearer, I. (2000). The Contested Maritime and Territorial Boundaries of Malaysia: An International Law

<sup>17</sup>Editor. (2019, June 25). Understanding Island Baselines at UNCLOS 1982. Maritime Journal.<https://jurnalmaritim.com/yang-penting-di-unclos-1982-garis-pangkal-kepulauan/>

<sup>18</sup> Contributor from the Wikimedia project. (2013, August 15). United Nations Convention on the Law of the Sea. Indonesian language wikisource. [https://id.wikisource.org/wiki/Konvensi\\_Perserikatan\\_Bangsa\\_Bangsa\\_tentang\\_Hukum\\_Laut](https://id.wikisource.org/wiki/Konvensi_Perserikatan_Bangsa_Bangsa_tentang_Hukum_Laut)

claim over the Ambalat Block is based on the interpretation of this treaty, which Malaysia considers that the islands it owns in the region have rights over the territorial waters, EEZ and land areas adjacent to them. However, the interpretation and application of this provision is difficult and can affect international disputes, especially when there are overlapping claims between neighboring countries. This may be true, but in determining land shelves between continents, one must consider the ocean floor as a continuation of the land above it. Therefore, the land area of a country should also be taken into account as the planned land surface area.

### **3.2.1.2 Legal Basis for Indonesian Claims**

According to the 1982 Convention on the Law of the Sea, Indonesia maintains exclusive rights to the natural resources of the seabed and the countries below, including oil and gas, up to 200 miles from Indonesia's island territory or beyond the continuous point of the treaty external border in Indonesia. From the island to the bottom of the ocean. The Ambalat block is a continuation of East Kalimantan because its platform is part of the continental plate that forms Kalimantan.<sup>19</sup> The location of the Ambalat block is still 200 miles from the island off the coast of East Kalimantan. This fact confirms that the Ambalat block is still in Indian territory, and that Indonesia has jurisdiction. In addition, Indonesia has been developing and exploring the Ambalat block and nearby areas for a long time. At the time, Malaysia did not protest Indonesia's claims.

### **3.2.1.3 Indonesian Legal Steps in Resolving the Ambalat Block Dispute**

Juridically, Indonesia in Article 47 of UNCLOS concerning the Archipelagic Base Line states that "An archipelagic country can draw a straight baseline of the archipelago that connects the outermost points of the island and the outermost dry reef of the archipelago, with the provision that such baseline includes the main islands and an area where the comparison between the water area and the land area, including a toll, is between one to one and nine to one<sup>20</sup>". Therefore, according to the document, Indonesia, a separate nation, can draw lines on its outer islands to mark the boundaries of its sovereign territory. To resolve the dispute over the Ambalat block, Indonesia will take four steps: First, each country will have the opportunity to express its claims on the disputed territory through bilateral negotiations<sup>21</sup>. Indonesia and Malaysia dispute where the border is and their legal rights. In

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<sup>19</sup> Nurhalizah, N. (2022, April 16). Efforts to resolve Indonesia and Malaysia regarding the Ambalat Block conflict - Kompasiana.com.COMPASIANA.<https://www.kompasiana.com/novandanurhalizah8973/625b36db3794d164150f36a2/upaya-penyelesaian-indonesia-dengan-malaysia-terhadap-konflik-blok-ambalat>

<sup>20</sup> City

<sup>21</sup> Khaerunisa. (2023, February 27). The process for resolving the Ambalat Block territorial boundary dispute, here is the explanation. intisari.grid.id.<https://intisari.grid.id/amp/033708995/proses-penyelesaian-sengketa-batas-wilayah->

this dispute, Malaysia used the 1979 war plan. At this time, Indonesia is making a claim based on UNCLOS 1982. If it fails, it will go to the next step and go to the next step 2. A site that has been in conflict for a long time.<sup>22</sup>

Currently, the Ambalat blockchain can be explored as a way to build mutual trust between two parties (trust building methods). This model has been implemented in Indonesia and Australia to manage the East Timor region. The third step is to use regional organizations through ASEAN as a means of resolving disputes, using the Supreme Committee designated in the Treaty of Understanding and Cooperation, starting with the 1976 Bali Declaration<sup>23</sup>. Malaysia will be reluctant to use this approach for fear of being attacked by other ASEAN countries. This is because Malaysia individually claimed sovereignty over the Philippines, Thailand and Singapore on the 1979 map, leading to a territorial dispute with Malaysia. In addition, the two countries can mediate this dispute using their relations with Korea, which is the chairman of the ASEAN Regional Forum (ARF).

The final step is to refer the dispute to the International Court of Justice (ICJ) for a non-political legal decision. If Indonesia can present solid legal evidence and other information, the chances of winning the dispute are very high. The 1982 UNCLOS document contains a lot of information about Indonesia, including scientific evidence of the location of Ambalat, a natural extension of the East Kalimantan region, historical evidence that the region was part of the Bulungan Kingdom, and the publication of TNI-AL. It's inside. The capital of the Indonesian people will win the war.

### **3.2.2 Settlement of Sipadan-Ligitan Disputes**

Resolving the dispute between Indonesia and Malaysia over the islands of Sipadan and Ligitan has been a difficult journey full of twists and turns. First, the issue of this dispute is based on the sovereignty claims expressed by the two countries for the two islands. In 1969, two delegations from Indonesia and Malaysia held a meeting to discuss the boundaries of each country's national parks. However, at the meeting, Indonesia and Malaysia added Sipadan and Ligitan islands to their territories.<sup>24</sup>

To maintain peace between the countries, Indonesia and Malaysia agreed to keep the islands of Sipadan and Ligitan.<sup>25</sup> This status quo requires both countries not to carry out any

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<sup>22</sup> *Ibid.*

<sup>23</sup> *Ibid.*

<sup>24</sup> Gustinawati, O. (n.d.). Settlement of the Indonesia-Malaysia case regarding the Sipadan Ligitan Island dispute case | The Columnist. The Columnist.<https://thecolumnist.id/artikel/penyelesaian-kasus-indonesiamalaysia-atas-kasus-sengketa-pulau-sipadan-ligitan-2434>

<sup>25</sup> *Ibid.*



activities on the two islands until there is a further decision regarding ownership. However, Malaysia still considers that the island is still under the leadership of the Malaysian government, so Malaysia is developing the island with the aim of making the island more developed. This made Indonesia think that Malaysia had violated the consensus that had been made, which created further tension in this dispute. Indonesia responded to the violations committed by Malaysia by establishing a "Joint Working Group on Sipadan and Ligitan" forum to find a solution to this dispute through negotiation and negotiation.<sup>26</sup> Despite ongoing negotiations, the two sides failed to reach an agreement as they broke each other's arguments to strengthen their respective claims.

Therefore, both countries agreed to refer the dispute to the International Court of Justice (ICJ), considering that a resolution by legal means would be more likely. Therefore, on May 31, 1997, the Government of the Republic of Indonesia signed the International Court of Justice. It is the result of negotiations between the government of the Republic of Indonesia and representatives of the government of Malaysia, the sovereignty of Ligitan Island and Sipadan Island<sup>27</sup>.

The submission of the Sipadan-Ligitan dispute to the International Court of Justice was motivated by the lack of faith in the initiative to resolve disputes at the regional level. Malaysia is concerned that ASEAN High Council judges, many of whom have border issues with Malaysia, could take sides. The International Court of Justice examined and reviewed the files of the two countries that claim the sovereignty of the two islands after submitting them to the international arena. However, the ICJ did not base its decision on the 1891 Convention, as its decision was mainly based on the preamble to the convention between Great Britain and the Netherlands defining the territories of Borneo "...of defining the boundaries between the Netherlands possessions in the Island of Borneo and the States in that Island which are under British protection"<sup>28</sup> but rather on the principle of effective occupation<sup>29</sup>. The ICJ set 1969 as a cut-off date, where activities carried out after that are not considered to have any effect on current law.

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<sup>26</sup> *Ibid.*

<sup>27</sup> Decision Of The President Of The Republic Of Indonesia Number 49 Of 1997 Concerning The Ratification Of The Special Agreement For Submission To The International Court Of Justice Of The Dispute Between Indonesia And Malaysia Concerning Sovereignty Over Pulau Ligitan And Pulau Sipadan

<sup>28</sup> Singh, D. S. R. (2019, November 1). Convention between Great Britain and the Netherlands Defining Boundaries in Borneo. Signed at London, 20 June 1891. Cambridge Core.  
<https://www.cambridge.org/core/books/abs/indonesiamalaysia-dispute-concerning-sovereignty-over-sipadan-and-ligitan-islands/convention-between-great-britain-and-the-netherlands-defining-boundaries-in-borneo-signed-at-london-20-june-1891/1CF3BA0898FFB2E1E3BE1E6A17C9FC4C>

<sup>29</sup> Effective occupation is a form of administrative action regarding control of an area that can only be applied to new areas, unoccupied areas, or areas that are considered unoccupied and disputed by the state.

After reviewing the evidence on the interests of both countries, the ICJ decided that Sipadan Island and Ligitan Island belonged to Malaysia. Indonesia claims sovereignty over both islands under the 1891 Convention, but the ICJ found no solid evidence to support this claim. Instead, the ICJ found that Britain's pre-1969 actions demonstrated good governance and protection by Malaysia.

On December 17, 2002, the International Court of Justice ruled that the islands of Sipadan and Ligitan belong to Malaysia, ending the process of resolving this dispute through international law<sup>30</sup>.

### **3.3 TAC in Ambalat and Sipadan-Ligitan Block Dispute Resolution**

TAC can be used as a guideline and applied in the settlement of disputes between Indonesia and Malaysia regarding Sipadan Island and Ligitan Island. Here are how the principles of TAC can be the basis for both countries in efforts to resolve the dispute:

- a) Principles of Peaceful Settlement: As in the Ambalat Block dispute, TAC emphasizes the importance of peaceful resolution of disputes. Indonesia and Malaysia Conduct intensive and constructive dialogue and negotiations, by prioritizing the principles of mutual respect and peaceful appreciation<sup>31</sup> through bilateral negotiations and without taking steps that threaten regional security.
- b) Principle of Respect for International Law: TAC also encourages member countries to respect international law in resolving disputes. In general, the principle of peaceful resolution of international disputes is based on the principles of international law that apply universally. The principles in resolving international disputes are: good faith, prohibition of the use of violence in resolving disputes, freedom to choose dispute resolution procedures, freedom to choose the law in resolving disputes, agreement between the parties to the dispute, and the principles of international law regarding sovereignty and independence. and the territorial integrity of countries<sup>32</sup>. In the context of the Sipadan-Ligitan dispute, Indonesia and Malaysia can refer to UNCLOS provisions and the principles of management effectiveness to determine ownership of these islands.

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<sup>30</sup> Saskia, F. A. (2019). The Role Of Asean In Overcoming The Malaysia Indonesia Conflict Regarding The Sipadan Ligitan Dispute. [www.academia.edu/41259165/Peranan\\_Asean\\_Dalam\\_Mengatasi\\_Konflik\\_Malaysia\\_Indonesia\\_Terkait\\_Sengketa\\_Sipadan\\_Ligitan](https://www.academia.edu/41259165/Peranan_Asean_Dalam_Mengatasi_Konflik_Malaysia_Indonesia_Terkait_Sengketa_Sipadan_Ligitan)

<sup>31</sup> MSN. (n.d.). <https://www.msn.com/id-id/berita/other/bagaimana-proses-penyelesaian-sengketa-batas-wilayah-blok-ambalat-antara-indonesia-dan-malaysia/ar-AA11AWG9>

<sup>32</sup> Harruma, I. (2022c, October 1). Principles of International Law in International Dispute Resolution. KOMPAS.com. <https://nasional.kompas.com/read/2022/10/02/01000081/prinsip-hukum-internasional-dalam-penyelesaian-sengketa-internasional>

- c) Principles of Cooperation and Consultation: TAC promotes cooperation and communication mechanisms among member countries in conflict resolution through the ASEAN Political and Security Community (APSC), with the aim of accelerating the political and security process in ASEAN for the achievement of peace in the region and in the world<sup>33</sup>.

Indonesia and Malaysia can use the ASEAN forum (APSC) to discuss, consult and find mutually beneficial solutions in resolving the Sipadan-Lipadan dispute.

By obeying the guidelines contained in the TAC, Indonesia and Malaysia can strengthen their commitment to resolve disputes peacefully and respecting international law in the case of the Ambalat and Sipadan-Lipadan Blocks. This can help create a stable regional environment and maintain peace in the South Asian region.

### **3.4 The Impact of the ICJ Decision on the Ligitan and Sipadan Dispute on the Settlement of the Ambalat Block Dispute**

On December 17, 2002, the International Court of Justice announced its decision on the Ligitan and Sipadan Island cases. This decision consists of comparing the claims and evidence presented by the two countries. The International Court of Justice has declared that Ligitan Island and Sipadan Island are under the sovereignty of Malaysia. This decision was made based on a number of considerations, including the history of local administration and government in Malaysia before and after independence, and the current arrangements between the powers: the British colonial administration and the Sultan of Sulu, who ruled the region<sup>34</sup>. The ruling of the International Court of Justice on the territorial dispute between Indonesia and Malaysia over the islands of Sipadan and Ligitan has important implications. First, this decision affirms the fundamental principles of international law that respect national sovereignty and encourage the resolution of disputes through international legal mechanisms. This is an important precedent for resolving similar disputes in the future. In addition, this decision has a direct impact on the relationship between Indonesia and Malaysia. The dispute has been burning for years, but both countries had to accept the ruling of the International Court of Justice. Through this, the two countries were able to focus on cooperation in various fields such as economy, trade and branding. Economic and environmental impacts are also a major concern. As Ligitan Island and Sipadan Island are

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<sup>33</sup> ASEAN Political Security Society | Portal of the Ministry of Foreign Affairs of the Republic of Indonesia. (n.d.-b).[https://kemlu.go.id/portal/id/read/121/halaman\\_list\\_lainnya/masyarakat-politik-keamanan-asean#](https://kemlu.go.id/portal/id/read/121/halaman_list_lainnya/masyarakat-politik-keamanan-asean#)

<sup>34</sup> Adya, A. (2023, September 13). Ligitan and Sipadan Island Case: International Court Decision and Its Impact. Zonatimes.Com.<https://zonatimes.com/pengetahuan/kasus-pulau-ligitan-dan-sipadan-keputusan-mahkamah-internasional-dan-dampaknya/>

popular tourist destinations in the region, this decision will affect the local tourism industry as Malaysia manages the islands. Environmental protection of these islands is an important issue, given the natural beauty and existing ecosystem. The reactions of the peoples and governments of the two countries are also different. In Indonesia, this decision caused disappointment and opposition from many groups, but in Malaysia, the decision was welcomed by the government and society. This shows the complexity and intricacy of the border dispute between the two countries (Adya, 2023).

In the context of this case, the decision of the International Court of Justice (ICJ) on the dispute over the Sipadan and Ligitan Islands has many important implications for the Ambalat Block dispute between Indonesia and Malaysia. First, the decision must follow the principles of international law, especially the principle of validity. This means that countries that demonstrate sovereignty and good territorial governance can demand stronger rights<sup>35</sup>. Furthermore, this ICJ decision underlines the importance of having a strong legal basis in determining territorial claims, so that Indonesia has a stronger bargaining position in the Ambalat Block dispute because it has ratified UNCLOS earlier and has legal principles that support its claims. Although the ICJ decision does not recognize the map drawn by Malaysia as a legal basis, it emphasizes that dispute resolution must be carried out through negotiations and dialogue between countries<sup>36</sup>. In the context of the Ambalat bloc, this resolution shows the need to take into account the principles of international law and UNCLOS, as well as the history and specific context of the conflict. Finally, this decision highlights the importance of maintaining regional sovereignty, which may affect Indonesia's approach to managing the Ambalat Block dispute.

#### **4. CONCLUSION**

The resolution of territorial disputes in Southeast Asia, such as that between India and Malaysia, reflects the region's political and historical tensions. Small islands like Sipadan and Ligitan, despite their small land area, have great strategic and symbolic value for both countries. Overlapping territorial claims often lead to conflicts between neighboring countries, and resolving these issues requires a balance between national interests and a commitment to peace and regional cooperation. The decision of the International Court of Justice (ICJ) in the Sipadan Island and Ligitan Islands cases is an important legal guide for the resolution of territorial disputes in Southeast Asia. The ICJ is an important framework

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<sup>35</sup>Gie. (2005, March 14). Melda Kamil: Indonesia's Bargaining Position in Ambalat is Very Big. lawonline.com.<https://www.hukumonline.com/berita/a/melda-kamil-ibargaining-positioni-indonesia-di-ambalat-sang-at-besar-hol12418>

<sup>36</sup> *Ibid.*

for negotiations between governments in regional disputes, using the principles of international law, including the concepts of historical evidence, sovereignty and law. The ICJ decision underlines the importance of peaceful resolution through international legal mechanisms to prevent conflict escalation. The Ambalat Block dispute between Malaysia and Indonesia means that regional conflicts will affect actors and neighboring countries. This shows that the actors have a role. Oil and gas companies. To resolve disputes, you must consider and complete these Additional Terms. The resolution of the conflict in the Ambalat region also shows the importance of regional and local cooperation in managing the region's natural resources and preventing armed conflict. Although there are many challenges in resolving territorial disputes in Southeast Asia, much remains to be done to reduce tensions and ensure peace and stability in the region. First, it is important for countries in conflict to communicate openly and honestly to find mutually beneficial solutions. Second, regional and multilateral cooperation through forums such as ASEAN can be effective in promoting dialogue and negotiations between conflicting parties. Third, we must support and strengthen the work of international organizations such as the ICJ and the UN to apply international law and promote dispute resolution.

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