The Sulawesi Sea Situation: Stage for tension or storm in a teacup?

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The Ambalat (Indonesia)/ ND6-ND7 (Malaysia) dispute in the western Sulawesi Sea has resurfaced with a vengeance threatening to disturb Indonesia-Malaysia relations. The issue has high stakes because a prolonged dispute could create instability in the region and undermine ASEAN unity. What's all the fuss about and why now?

Indonesia has six warships and three warplanes in the area while Malaysia has several navy and coast guard vessels and aircraft there. Incursions by both sides into each others claimed waters have become increasingly frequent since the beginning of this year. Malaysia put bilateral talks on hold in April 2008. Things came to a boiling point on May 25 when an Indonesian navy vessel reported that it was only moments away from opening fire on a Malaysian warship that had allegedly encroached on claimed Indonesia waters. Some speculate that officials in Indonesia were using the incidents to pander to the Indonesian public in the run-up to the July 8 Presidential election. The Indonesian media certainly played up the saber rattling sound bites by Indonesian officials. Statements by senior officials have begun to be peppered with adversarial tone. Indonesian Defence Minister Juwono Sudaryono said "We are undeterred. Let Malaysia send military force and launch propaganda in Ambalat … ". An international relations expert said "I am supportive of deploying Indonesian warships to Ambalat". Weighing in on the dispute in a very alarming tone, Vice President Jusuf Kalla said Indonesia must take action and be prepared to wage war.

Instead, Indonesia sent a diplomatic note to soften the situation and dampen the fiery response. And as an attempt to reduce tension, six leading Indonesia legislators traveled to Malaysia to try to convince their counterparts in Malaysia of the seriousness of the problem. Moreover the Malaysian Navy Chief apologized to Indonesia for its actions there.

But why did this issue bring these two normally friendly countries to the point of conflict? What are the prevailing circumstances that have contributed to the rising temperature between Kuala Lumpur and Jakarta on this seemingly minor issue?

The Background

Malaysia's inferred baseline, which links its territory on Sebatik Island with Pulau Sipadan does not connect islands fringing its coast nor does it enclose a coast which is deeply indented, and it deviates appreciably from the general direction of the coast. Thus the baseline does not appear to conform to the 1982 UN Convention on the Law of the Sea (UNCLOS) which both Malaysia and Indonesia have ratified.

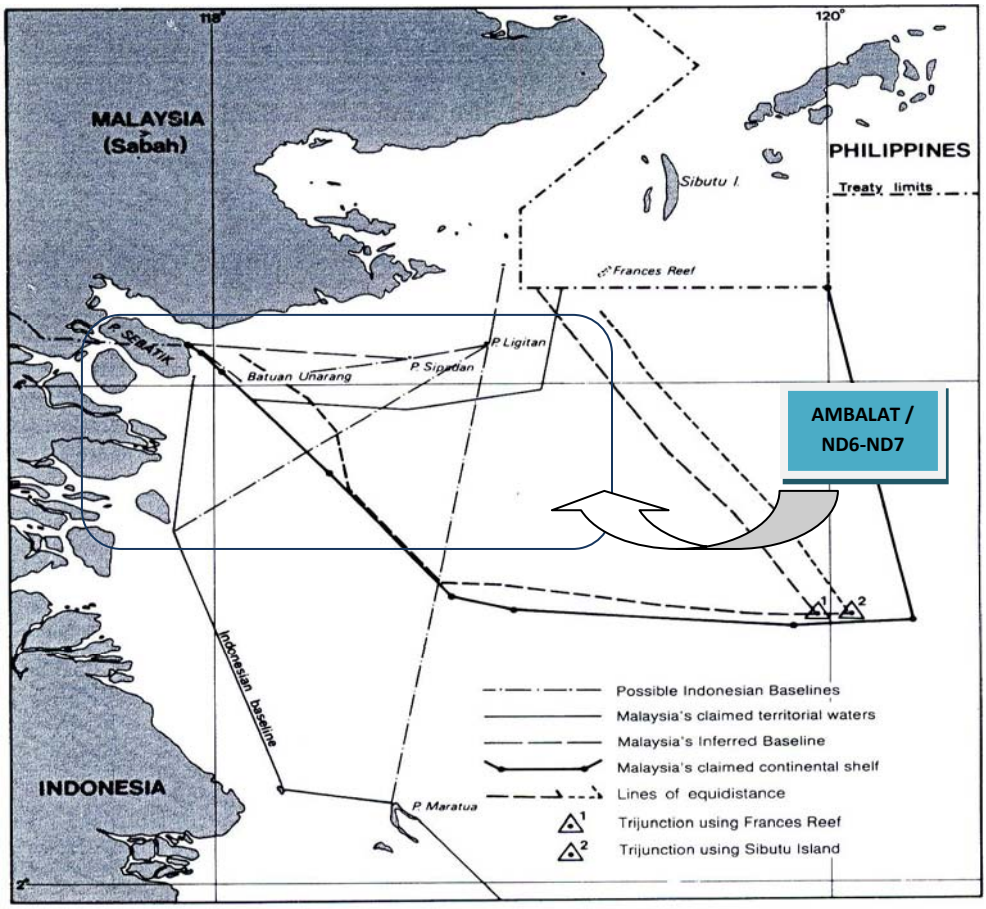

Fig 1 . Sulawesi Sea: overlapping claims
(Source: Prescott, 1981 with additions by the author)

Malaysia has unilaterally drawn the common territorial sea boundary as a line which bisects the angle formed by Indonesia's archipelagic baseline and Malaysia's inferred baseline (Figure 1). Such a line totally ignores Batuan Unarang, a rock from which Indonesia is entitled to claim territorial seas. Malaysia owns the islands of Sipadan and Ligitan. But it also claims territorial seas and a section of continental shelf from these features which extend beyond a line of equidistance with Indonesia. A length of the boundary claimed by Malaysia does closely follow an equidistant course, but it extends too far to the southeast, discounting Pulau Maratua, a feature forming part of Indonesia's archipelagic baseline.

In the western margin of the sea, the Malaysian continental shelf claim encloses the edge of the onshore/offshore petroliferous Tarakan basin and cuts completely in half the closure of a two-kilometer thick offshore sediment pod extending to the southeast. Indonesia had originally let a portion of this area that it calls Ambalat to Scepter Petroleum Ltd. Just one of the Ambalat blocks is estimated to contain as much as 764 million barrels of oil and 1.4 trillion cubic feet of gas. If Sipadan and Ligitan were ignored, an equidistance line between Indonesia's archipelagic baselines and Malaysian territory would give more of this petroliferous basin to Indonesia.

The Ambalat dispute originated in 1979 when Malaysia published its 'Peta Baru', or literally 'new map'. However it was greatly exacerbated in 2002 when the International Court of Justice (ICJ) awarded Malaysia both Sipadan and Ligitan. The ICJ made no decision on whether the features should be able to claim maritime zones, nor on maritime boundaries. But Malaysia then used these as base points to make further claims to territorial seas, EEZ and continental shelf. Making matters worse, in February 2005 Malaysia granted oil exploration sights to Shell Oil Company and to Petronas in the disputed area that overlapped areas Indonesia had previously granted to ENI in 1999 and to UNOCAL in 2004.

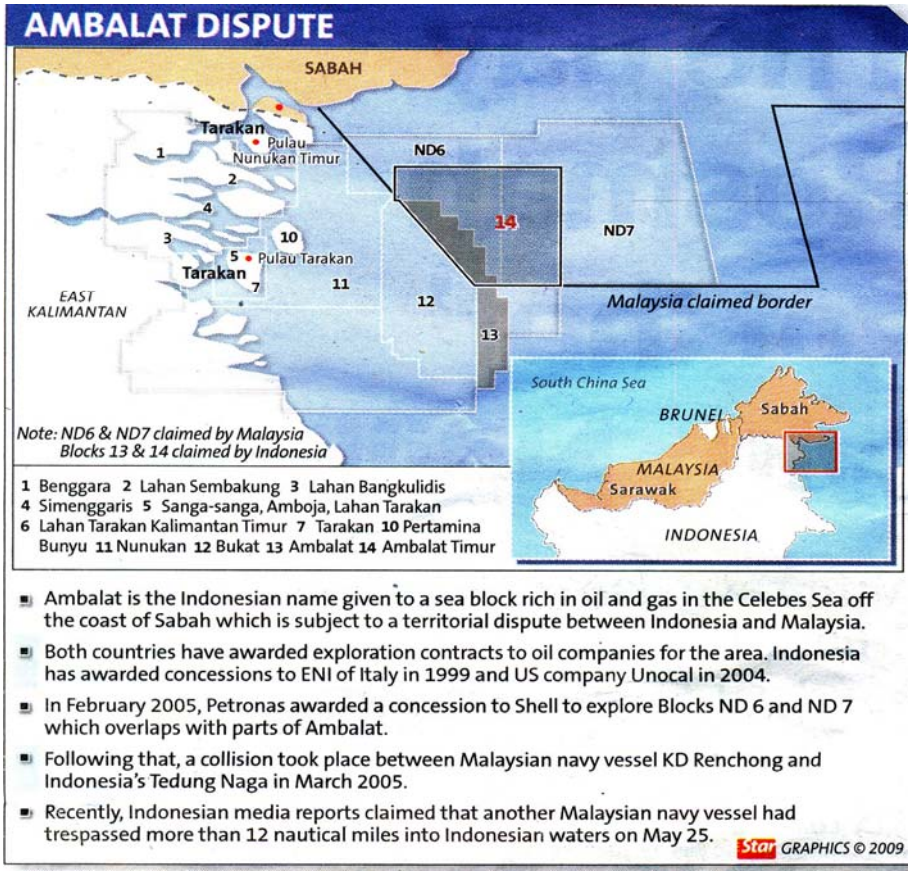

Figure 2 : The Ambalat/N6-N7 Dispute (Source : The Star)

The decision of the court shocked and deeply hurt Indonesia national sentiment. It also affects the careers of some of the officials who had agreed with Malaysia to take the case to the court on a "winner take all" basis. At the time of the ICJ judgment, Indonesia had just lost East Timor and there were secessionist movements ongoing in West Irian and Acheh. To alienate even a small portion of the Republic was a blow to its national self-esteem and the public reacted accordingly. For Malaysia this was a case of 'winning the battle but losing the 'war'. The Indonesian government vowed it would never happen again and indeed has refused to take the Sulawesi Sea issue to the Court or any third party arbitration. Given this experience and the negative public mood, Indonesia is also highly unlikely to give any more concessions to Malaysia in this or other boundary negotiations. Indeed it has insisted that the Ambalat dispute be negotiated together with other outstanding boundary disputes with Malaysia, including the EEZ North of Tanjung Datu, the third party point south of Singapore's newly won Pulau Pedra Branca, and the EEZ boundary in the Malacca Strait. This is an attempt to force Malaysia to yield on the Ambalat issue and accept only territorial seas around Sipadan and Ligitan.

In the past, maritime security issue and its importance on foreign policy did not figure prominently on the radar of the political elite in Jakarta. However, the judgment by ICJ on Sipadan and Ligitan in favor of Malaysia marked a major shift in the view of maritime matters among Indonesia's political class. Although it cannot be ascertained whether Jakarta has designed a policy response to Ambalat, its top navy brass has been making statements that can be construed as representative of the official position of Indonesia on the Ambalat matter.

Indonesia's perspective on Ambalat is decidedly shaped by its archipelagic viewpoint that to quell maritime security threats coming from piracy, smuggling and potential acts of terror, it needs to have better control of its maritime domain. To Indonesia, ICJ's decision on Sipadan and Ligitan in favor of Malaysia on grounds of 'continued exercise of authority' over the islands was particularly difficult to stomach as they are located south of what Jakarta considers as its baseline to determine its maritime boundary with Malaysia. The 'loss' of Sipadan and Ligitan was a painful reminder to Indonesia of the heavy price to pay for not giving attention to maritime issues. Indonesia's determination not to repeat the bitter lesson of Sipadan and Ligitan is seen in the manner it conducts itself in the Ambalat dispute.

The intensity of the Ambalat dispute belies the close practical cooperation between Malaysia and Indonesia in the maritime realm. Both nations have been engaged in bilateral coordinated naval patrols called MALINDO to secure the Straits of Malacca from trans-national threats such as piracy. Both also participate in trilateral patrols with Singapore called MALSINDO. There are also increasing communications between maritime coordination centers in the Indonesia side at Belawan and Batam, and Malaysia's in the naval town of Lumut. Both countries, along with Singapore, have announced the formation of a ministerial level tripartite forum to discuss and improve maritime security in the Straits of Malacca among them. Given such level of cooperation, and the close socio-economic and symbiotic ties between the two countries, it is deeply regrettable that they have come to loggerheads over the Ambalat dispute.

The way forward : Towards amicable settlement of the dispute

Where do Indonesia and Malaysia go from here? For the time being, Malaysia has proposed that patrols be suspended to avoid more incidents while Indonesia has proposed joint patrols of the area, and that Malaysian vessels and aircraft not come too near its claimed area. This will have to be sorted out at the next negotiating session between Kuala Lumpur and Jakarta in July 2009. They might also change their patrols from those being conducted by the military to the Coast Guard or marine police to try to avoid conflict. Meanwhile the two neighbors and long term friends should abide by their Incidents at Sea Agreement (INCSEA) which, above all, states that their warships and military aircraft should avoid the use or threat of force on one another. It also provides standard safety procedures when encountering each other's ships and aircraft. Calls by both sides for refrain from provocation and for the observance of the rules of engagement should be taken in the right spirit by one another to prevent any unpleasant incidents between them.

Ultimately there may be room for a co-operative solution like joint development, as practiced between Malaysia and Thailand in the Gulf of Thailand, although given the recent history the sharing would probably have to be largely in Indonesia's favor. Until that solution is applied, it is hoped that this seemingly small issue will not disturb Malaysia-Indonesia relations and peace in Southeast Asia. The relationship between the two is too close and precious to be soured over this issue, hence both parties must work hard at containing the dispute and settling it amicably for the sake of preserving bilateral ties and regional stability.

To this end, the recent conciliatory tones coming out from Jakarta and Kuala Lumpur to defuse the tension over Ambalat give much hope that good senses and cool heads will prevail between the parties involved. This augurs well towards mending the somewhat strained Malaysia-Indonesia ties over the issue and to realign them back to a more stable course that befits the exceptionally cordial relationship between their highest political echelons and the almost inseparable socio-economic and cultural ties between their peoples.