

CHAPTER I

INTRODUCTION

A. Background

Concerning the existing conflict in international relations, a lot of study have been conducted concerning infinite boundaries. After the development of the modern state concept, every state in the world began to change the direction of the tendency to define the nature of the nation itself to an independent nation. Therefore, many new interests of the nation appeared such as politics, ideology, economics, defense, culture, and social security for one purpose, namely hegemony (domination by one group against another group).

One of conflicts is the constantly evolving and increasing tension in the South China Sea. South China Sea is the sea which has an area for about 3.5 million square kilometers. The huge of South China Sea is 39% of the total sea area in the Southeast Asia, which are approximately 8.9 million square kilometers. South China Sea is 2.5% of the sea area of the world as a whole.¹ South China Sea area includes water, land and two main islands, the Spratly and Parcels. Besides that, there are also Macclesfield rivers and Scarborough reef which stretch from Singapore starting from the Straits to the Strait of Taiwan. Because of any vast territory expansion and the history of the mastery of traditional.

¹ Saw Swee-Hock, Sheng Lijun Chin Kin 2005, *ASEAN-China Relation Realities and Prospects*, Singapore, ISEAS Publishing, p. 330.

rulers alternated by nearby countries, some countries, such as the People's Republic of China (PRC), Taiwan, Vietnam, the Philippines and Brunei Darussalam, engaged in efforts to claim some or all of the waters.²

South China Sea has a lot of potential conflicts. It can be seen from the geographical location of the South China Sea that indicates overlapping of the border because border territorial sovereignty which is owned by the state overlap with regions of other countries. It is possible because to settle the border of a region as measured from the sea is more difficult than to settle the border of the state on land.

Then the South China Sea is surrounded by more than one country that allows a struggle among the states. There are ten coastal countries (China and Taiwan, Vietnam, Cambodia, Thailand, Malaysia, Singapore, Indonesia, Brunei Darussalam and Philippines), and among the ten countries, China is the most ambitious to take a part of the sea. Historically, the ownership of the oceans belongs to many countries such as England, France, Japan, China, and Vietnam. In the development of the dispute between Malaysia and Brunei, the Philippines and Taiwan were also involved.³

² Poltak Partogi Nainggolan, 2013, *Konflik Laut China Selatan dan Implikasinya Terhadap Kawasan*, Jakarta, P3DI Setjen DPR Republik Indonesia dan Azza Grafika, p. 1.

³ Setyahasih Harini, "Kepentingan Nasional China dalam Konflik Laut China Selatan", 2014, taken from, https://www.researchgate.net/publication/265489182_KEPENTINGAN_NASIONAL_CHINA_DALAM_KONFLIK_LAUT_CINA_SELATAN_SETYASIH_HARINI, accessed on Monday, November 7, 2016, at 6.17 p.m.

South China Sea is the largest area with the natural resources and geographic potentials. The natural resources owned by the South China Sea are in the forms of petroleum and natural gas contained therein with a sizeable amount; whereas the geographic potential is that the area is along the shipping and international communication lines (international trade sea traffic lane). This area is also traversed by many Navy Fleet, either tankers or Fleet Navy from developed countries, like the United States, Australia, Japan, and Korea across the sea.

South China Sea area is, when viewed in the governance of the International Ocean, an area that has the economic, political, and strategic value. This makes this area has a potential for conflict as well as potential for cooperation. In other words, the South China Sea with petroleum and natural gas contained therein as well as the very important role as a trade and distribution of the world's oil, becomes the object of regional debate over the years.⁴

In resolving a dispute in the South China Sea, the priority is to resolve the dispute and not to give judgment.⁵ Either involved directly or indirectly, the territorial dispute in the South China Sea for decades continue to proceed in finding a form of dispute resolution that is best for the security and stability of the region. The People's Republic of China (PRC) is the first country to claim

⁴ Kompas, "Singapura Desak China Jelaskan Klaim", 21 Juni 2011, taken from, <http://internasional.kompas.com/Singapura.Desak.China.Jelaskan.Klaim>, accessed on Thursday, September 15, 2016 at 8.47 p.m.

⁵World Trade Organization, "Chapter 3: Settling Disputes", http://www.wto.org/English/thewto_e/whatis_e/tif_e/utw_chap3_e.pdf, accessed on Thursday, September 15, 2016 at 9.32 p.m.

territorial waters in the 'nine dotted lines' (nine-dashed line) listed on maps produced by the Geography Department of the Ministry of Interior of the Republic of China in 1947.⁶

Meanwhile, in 1951, in the San Francisco Peace Conference, the Prime Minister of South Vietnam issued a statement about the ownership of the Spratly and Paracel Islands. And in 1970, Brunei and Malaysia participated in the dispute by claiming the Continental Shelf in by the Law of the Sea (United Nations Convention on the Law of the Sea-UNCLOS). Seeing the potential for conflict region, efforts were made to manage conflicts and peaceful resolution of disputes on this issue.

Efforts to develop cooperation and regional security, dispute resolution and conflict management, and development in the South China Sea have been divided into a formal approach through the ASEAN forum, an informal approach through academic institutions, and the approach is not authorized by the officials but in their personal capacity.⁷ So, because there are many countries in this dispute, the countries need international dispute settlement in this case. On July 2013, the Arbitral Tribunal was constituted to resolve the dispute in the South China Sea between The Philippines and The People's Republic of China.

Based on the background above, the author considers the need to know how the analysis of South China Sea between China and Philippine is. Hence, the

⁶ Alex Calvo, "China the Philippines, Vietnam, and International Arbitration in the South China Sea", *the Asia-Pacific Journal*, Vol. 13, Issue. 42. No.II October, 26, 2015, p. 168.

⁷ *Ibid.*

writer will do a research entitled the analysis of South China Sea Dispute between Philippine and the People's Republic of China after Award of Arbitral Tribunal Constituted Under Annex VII to the 1982 United Nation Convention on Law of the Sea.

B. Research Problem

How is the Role of Arbitral Tribunal Under Annex VII of the 1982 United Nation Convention on the Law of the Sea to the South China Sea Case between the People's Republic of China and the Philippines?

C. Objective Research

The objectives of this research are:

The research aimed to analyze the role of Arbitral Tribunal Under Annex VII to the 1982 United Nation Convention on the Law of the Sea to the South China Sea.

D. Benefit of Research

1. Theoretically, the research would give the understanding on the award by the permanent court of arbitration on the case of South China Sea between China and Philippine under Annex VII of the 1982 United Nation Convention on the Law of the Sea.

E. Overview of the Chapter

In this undergraduate thesis the author will elaborate the topic systematically by divided it into five chapters, namely Chapter I: Introduction, Chapter II: Literature Review, Chapter III: Research Methods, Chapter IV: Finding and Analysis; and Chapter V: Conclusion and Recommendation.

Chapter one is the introduction. Here the author will elaborate the general matter, such as statement of the problem, objective of the research, benefits of the research, and also the overview of the chapters.

Chapter two is the literature review. Here the author will elaborate each variable on this undergraduate thesis. The analysis of South China Sea Dispute between the Philippine and the People's Republic of China after the award from Permanent Court of Arbitration Under Annex VII of the 1982 United Nation Convention on the Law of the Sea.

Chapter three is the methodology. In this chapter, the author will show the type of the research, the type of data, the method of collecting the data, and the data analysis.

Chapter four will be the result and discussion. In this chapter, the author will discuss the Analysis of South China Sea Dispute between the People's Republic of China and Philippine after the Award of Arbitral Tribunal Constitued under Annex VII of the 1982 United Nation Convention on Law of the Sea.

Chapter five contains the conclusion and suggestion from the author toward the result of the research.