

CHAPTER I

INTRODUCTION

The high demand of energy make the development of oil and gas exploration industry as an important energy sources increased rapidly. The oil and gas exploration are developed not only on the land but also in offshore area as the progress of sophisticated technology. One area that store large amounts of hydrocarbon reserve where exploration activity developed on a large scale is the Timor Sea, the sea that becomes maritime boundaries of the three states Australia, Indonesia and Indonesia. The large quantity of hydrocarbon reserve lie within this waters area has invited the present of many International Oil companies from different countries to develop exploration projects. However, the high rhythm of exploration activity makes this region vulnerable to marine pollution. One of current pollution occurs is an oil spill caused by the explosion of Montara Oil field. This oil spill Incident has caused various ecological impacts to the marine environment and coastal communities in the Timor Sea.

A. Background

Indonesia as the biggest archipelagic state in the world, has an abundance of marine resources and a great responsibility for the preservation and sustainability of its marine environment. Indonesia's disposition as such country has brought the marine world coloring its historical development and making the marine economy becomes the very important component for national development. However, the natural riches that are stored in the sea have often

been threatened by the rising intensity of marine activities from both onshore and offshore areas. The threat upon the sustainability of marine environment forced the government to maintain its national interest with the great protection policy. For that reason, the capacity and capability of government are required to protect the whole marine environment within Indonesian territorial waters from both internal and external factors. One area of Indonesian waters that hold the potential resources is the Timor Sea that becomes Indonesian maritime boundary exactly in the East Nusa Tenggara provinces with foreign waters.

Economically, Timor Sea has rich potential natural resources with the high economic value, as thousands even millions barrel oil and gas lie within the sea. A number of significant islands and the colony of island are located in this area including the Melville Island, where the stones with its diamond substance have been founded recently in this land and Australian-governed Ashmore and Cartier Islands. Geologically, the regional basin in Timor Sea is included into outer arc of non-volcanic that consist of the island of Sawu, Roti, Timor, Leti, Babar, Tanibar, Kay, and Watubela. Moreover, within the sea also lie several species of marine biota with high economic value like Tuna, Sea Shell, Tripang, Coral Reefs, seaweed and Turtles.

Since the discovery of petroleum reserve in the Timor Sea area in the 1970s, there have been long disputes over exploration rights in the area known as the "Timor Gap", borderland of East Nusa Tenggara province with East Timor and Australia. Actually, since the independency of East Timor there are no permanent territorial sea boundaries amongst Indonesia, East Timor and Australia

in the Timor Sea area. Nevertheless, in the following days Australia and East Timor had made several Treaties and agreements related to maritime arrangement including the states boundary in Timor Sea and exploration right in several fields in this waters area.

Further, after the discoveries of hydrocarbon reserves in Timor Sea, a lot of exploration and development of oil and gas projects have been developed continuously in this area. The potential oil and gas reserves contained in Timor Sea certainly had attracted much present of International oil companies to come and invest their funds in oil and gas exploration in this area. Phillips Petroleum (US company), Royal Dutch Shell (British and Dutch company) and Woodside Australian Energy are several companies that hold the largest share in managing petroleum industry in Timor Sea. Beside those three companies, there are also many other companies that contribute themselves in exploration activity in this area such as Santos, Osaka Gas, Kerr-McGee, Inpex, Eni and Oceanic Exploration, PTTEP Australasia etc.¹

Generally the oil and gas exploration in Timor Sea can be simply classified into three zones. First is the oil field included in the Exclusive economic Zone of East Timor, that are Laminaria-Coralina and The Greater Sunrise field in which 80 per cent or even more of its project are owned by Australia according to Treaty, but actually it absolutely belongs to Timor Leste if referring to International Law. The Second one is the Joint Petroleum Development Area that

¹ Ladang Minyak dan Gas di Laut Timor. (July 2002). La'o Hamutuk bulletin. Vol. 3, No. 5. p.4 <http://www.etan.org/lh/pdfs/lhv3n5bh.pdf>. Retrieved: November 24th, 2010

consists of Elang-Kakatua, Bayu-Undan and Chudditch field in which 90 per cent of their ownership right belongs to East Timor and 10 percent owned by Australia. The third one is the field that includes within Australian territorial waters authority around Australian Basin which part of them are Browse Basin located in the southern of West Timor and Bonaparte Basin located primarily offshore in coastal waters off the north coast of Australia.²

The Elang-Kakatua is the first discovered oil field and being explored within discovered Joint Petroleum Development Area (JPDA). This field is operated by the oil company ConocoPhillips. Moreover, ConocoPhillips also explores the Bayu-Undan field, the field with the rich reserves of natural gas that is included within JPDA. In addition, The Greater Sunrise is the largest oil field discovered in Timor Sea containing gas twice larger than Bayu-Undan. Some experts estimated there are about 240 million barrels oil and 154 billion meter cubic natural contained in this field. This gas field only about 20 per cent includes into joint petroleum development area while about 80 per cent of its part lies outside the JPDA now being occupied by Australia, yet it is also being claimed by East Timorese authority. Laminaria-Corallina is the field that lies outside the JPDA, but actually its location is much closer to East Timor in which its water area is also still being claimed by both East Timor and Australia.³

² Ibid. p. 7-10.

³ Tinjauan Ulang Mengenai Minyak dan Gas di Laut Timor. (August, 2003). La'o Hamutuk bulletin. Vol.4, No. 3-4. p. 3-4 <http://www.etan.org/lh/pdfs/bulletin/lhb14n34bh.pdf>
Retrieved: November 25th, 2010

Certainly the oil and gas reserves contained in this Timor Sea give a lot of revenue for the state who are entitled to this region. The revenue from oil and gas creates much devise for the country that may use to improve societal welfare. However in fact, the development of petroleum industry all over the world in either land or offshore definitely did not come without any fund and risk. The activities of Petroleum Company are not infrequently contributed to marine pollution problem that further obviously creates numerous problems for peoples and environment surrounding exploration area.

For the offshore exploration, the high activity around the ocean direct and indirectly contributes various kind of marine pollution. Marine pollution creates a dangers and worse effects for biological and non-biological resources within the ocean. The oil's well explosion and the leakage of oil refineries may become several risks of potential threats that occur during various stage of well drilling in oil exploration in waters area. When oil spills over the ocean, it directly spreads in the water with various extents depended on its relative composition. Wave, water current and wind become several factors determining the spread volume of oil spill that bring the oil slick to flow over larges areas even far across over other state's territory.

Recently, the great marine pollution disaster has occurred in Timor Sea. This marine pollution caused by the large quantity of oil volume spill over the waters area. The slick was released following the explosion of Montara Head Platform in Blok West Atlas-Timor Sea on August 21st 2009 and continued leaking until November 3th, 2009. This Oil field includes to Montara

Development Project beside Skua, Swift and Swallow oil field. Montara Development project is located in the southern Timor Sea under the purview of Australian Northern Territory. It is situated approximately 650 km west of Darwin in the Vulcan Sub-Basin region of Bonaparte Basin.

According to The Australian Maritime Safety Authority (AMSA) report, the slick was 170 kilometers from the coast of Western Australia. From the wide range of this oil spill, it is estimated 75 percent of them are parts of Indonesian waters.⁴The Australian Department of Resources, Energy and Tourism estimated that the oil leak could be as high as 2000 barrels per day. It referred to the amount of oil that the well could produce in its maximum production.⁵

Even though the leak was successfully plugged and the fire was extinguished by pumping approximately 3,400 barrels heavy mud down into relief well in November 1st, 2009, the oil spill that has been flowing over the waters still has long term effects for marine biota within the ocean.

This oil spill has become a great disaster which brought hazardous impacts for the marine ecosystem living within the Timor Sea. Marine animals like spinner dolphins, sooty terns, spotted sea snake, hawksbill and flat-back turtles that swimming around oil leaking were threatening for their direct contact with waters that have been contaminated by toxic substance of oil spill.⁶The West

⁴ Oil slick moving closer to the shore, ABC News.
<http://www.abc.net.au/news/stories/2009/09/04/2677276.htm> Retrieved: November 25th, 2010

⁵ Oil Leaking Five Times Faster than thought. ABC News.
<http://www.webcitation.org/5I3RU9Sv0> Retrieved: November 24th, 2010

⁶ "Dolphins exposed to Timor Sea oil spill: WWF". ABC News.
<http://www.webcitation.org/5I3SZbUjV> Retrieved: November 25th, 2010

Timor Care Foundation, which supports poor fishermen in eastern Indonesia, also estimates the spill as even larger that polluted the Timor Sea with direct negative consequences for the existing ecosystem and environmental sea.⁷ It is estimated at least 40 million liters of crude oil has spilled into the sea until now and the oil flow continues even after the fire was extinguished.

Globally, the direct impacts brought by this oil spill disaster are consist of: thousand barrels of crude oil flow over the water for each day, 0,0001 mm of crude oil covers water's surface, crude oil has already flowed across others state territorial water area and the hydrocarbon gas has been vaporized over the atmosphere. Then, the impacts of disaster had to be coped with serious handling of concerned party, as the recovery of environmental sea caused by pollution are quite difficult and need the high cost especially for the unrecoverable natural reserves.

In dealing with this marine pollution problem Indonesian government had commanded its National Team of Ocean Spill Emergency Situations on to cope with the disaster. This team is assigned to propose an official compensation claim toward Montara's operator in Timor Sea. Moreover, national law concerning the affairs of law of the sea has arranged provisions which can be used as a reference to follow up the marine pollution problem for the Government. Furthermore, on August 26th, 2010 the Government represented by Advocated team of Timor Sea's oil spill headed by Masnellyati Hilman has coming into meeting with Montara's operator to discuss the compensation claim requested by Indonesia. At that time

⁷ Indonesia Demands Compensation For Timor Sea Spill.
<http://news.id.msn.com/regional/article.aspx?cp-documentid=4233059>
Retrieved: August 18th, 2010

Indonesia proposed about 22 trillion rupiah for the compensation claim against Montara's operator.⁸ Until now, Indonesian Government through its national team still in effort to reformulate the accurate and credible calculation of both short and long term effects that must be supported by scientific research as what required by Montara's operator to strengthened the demand of compensation compliance by PTTEP Australasia.

B. Writing Objective

The objectives of writing this thesis are to answer an existing research question and to prove the formulated hypothesis by the existing data. So that it can give further description for everyone related to the marine pollution phenomenon that happened around the ocean in East Nusa Tenggara that has been really worrying surrounding people there with the contaminated sea waters in this area by hazardous substance causing economic and ecological loses. Besides, it can give a guideline for students who want to know about the handling efforts probably taken by government to protect its territorial autonomy from foreign threat.

C. Research Question

From the exploration of problem background above, the research question is then, "Why did Indonesian government decide to propose an official formulated compensation claim toward PTTEP Australasia for its Montara's oil explosion in Timor Sea?"

⁸ Klaim Ditolak Hukum Betindak

<http://www.migas.esdm.go.id/tracking/berita-kemigasas/detail/253895/Klaim-Ditolak,-Hukum-Bertindak> Retrieved: November 30th, 2010.

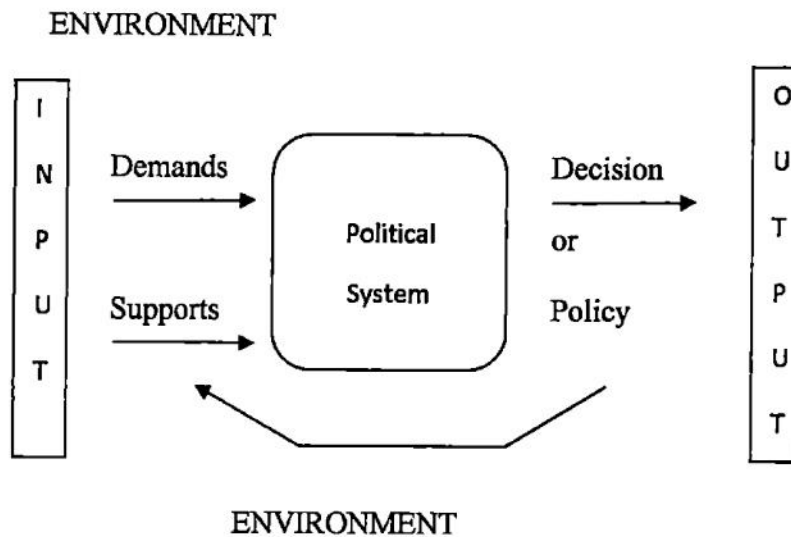
D. Theoretical Framework

A theory is the general explanation why something could happen and predict when it happens. The functions of a theory are to explain and base on reference to predict. A theory can explain a phenomenon, understand, analyze, and predict when or how the phenomenon takes place. In explaining this research, the writer applies several thoughts of political and social scientist.

1. Theory of Decision Making Process

The policy making and policy executing in the government need to aggregate the societal interest from both individual and group that further might be alternatives policy. The aggregating of societal interest will be the output of decision making process around government level which may influence economic, social structure and cultural life of domestic society. In political life of a state it needs a precise decision making with all of its consideration. However, it is too fatal for a state to decide a decision without any careful consideration for the high coming risk latter. *Decision maker theory* is used to identify some variables that are relevant with the phenomenon that happens, and to show the inter-relevance probably emerging from that various variables. This theory exactly directs decision makers to make a policy within their administration. David Easton draws decision making process in such diagram:

Figure 1: Decision making Process model of David Easton



Sources: Mohtar Mas' oed and Collin Mc, Andrews' book:

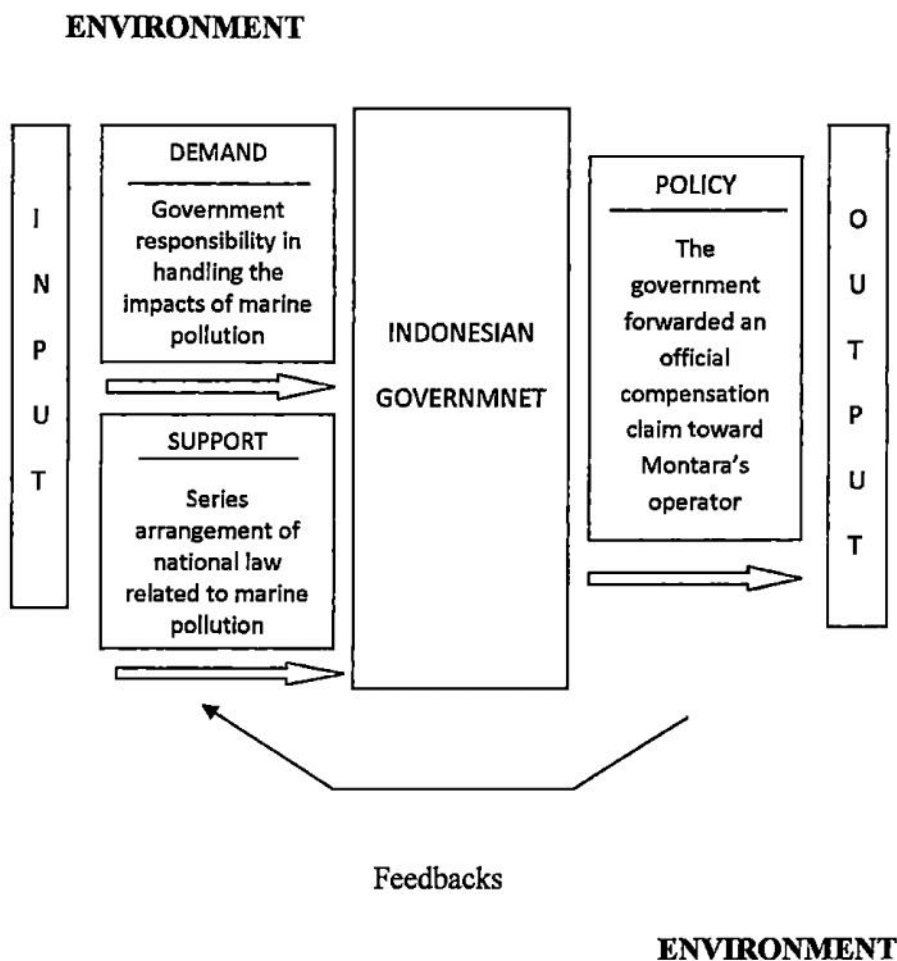
Perbandingan Sistem Politik, Liberty Yogyakarta Press

The relation between system and its environment is very tight. Political system has been influenced by all things happening around it. Various kinds of influences coming from its environment flow into political system. In the above schema it is being asserted that the vector that comes from environment (either intra-societal or extra-societal) drawing so many transactions that happened between environments with the political system. Interrelationship between political systems with its environment in this scheme is drawn by a vector. The environmental influences, either intra-societal or extra-societal one, flow into political system as either demands or supports for the decision makers as consideration for issuing their policy.⁹

⁹ Haryanto. Sistem Politik Suatu Pengantar. Yogyakarta Liberty Press.p. 15-16

There are two kinds of input sources within political system, demand and support. Input of demands is a desire of people as either individual or groups within a society to deal with a problem. When demands are delivered by an effort specifically organized within society then that demands have become an input of political system. Input of support becomes energy for political system of a state. However, input that comes from only a demand is not strong enough for the survival and continuity of a political system, for that demands is only a basic material used to make final product, which is called as decision.

Figure 2: The implementation of decision making process model



Marine pollution in Timor Sea as the impact of oil spill from Montara drilling installation that has flowed over Indonesian territorial waters has risen potential threat for environmental sea and society in the East Nusa Tenggara; a province that exactly shares its waters area with Timor Sea. As the full sovereign state over its territory both in land and in the sea, Indonesia has the right over natural resources within its land and sea , and also has the obligation and responsibility to protect the safety of its territory from potential threat emerged in any time from either internal or external factors.

In this case by the tragedy of oil spill over Indonesian waters, Indonesia inconsequently suffered great impact of economic and environmental sea loss. People in East Nusa Tenggara, especially in coastlines, with majority people are fishermen as livelihood sources, felt the direct impact for their life. The total of fish catch of fishermen in this area is decreasing drastically. Seaward cultivation has suffered much loss for the decreasing production. The marine biota are threatened by various hazardous substance carried out by oil spill. This serious threat pushed society in East Nusa Tenggara, as direct victims, to propose demand toward Indonesian Government to deal with this problem. They ask the responsibility of the government to handle the impact of this marine pollution problem threatening their live and their environment.

This problem also successfully catches several local non-governmental organizations' attention as environmental watchdog. They moved to allocate and sound societal demands in East Nusa Tenggara provinces. Some of that societal organization independently has done a research of this oil spill to formulate a

valid data and fact that will be forwarded to local and central government. They proposed the demand and all at once supported government to solve this problem. They ask government to take strict action in handling the impact of this oil spill that has been running for about a year without any clarity. Besides, looking at some national law of the sea related to marine pollution problem that has been ratified by Indonesia, it gives strong and legal support for this country to use its right as coastal state threatened by marine pollution to proposed compensation claim toward accused party.

Demands for the problem solving followed by the supporting data of the result of oil spill and legal provisions arranged by national law become the input for the Indonesian government as the decision maker to decide the policy related to this problem. For the efforts to handle the impacts of marine pollution problem Government has formed the National Team that assigned to do a research in contaminated waters sea and to count the amount of societal and environmental loss, then further, those data are used to formulate compensation claim toward PTTEP Australasia.

2. The Concept of Non-Traditional Security

The new approach of security studies is not only limited over a study of military and political efforts for state defense, but in the following time, it is covering the implication of policy, practice and political system through human efforts to keep their survival, religious, ethnical and gender identity, and freedom for expression.

According to Barry Buzan, the security is quite related to the matter of “survival”. Issues threatening the survival of collective unit or the principle owned by certain collective unit will be received as an existential threat and it needs an action to prioritize that issue in order to handle it as soon as possible. Buzan classified the security into five dimensions, namely: politic, military, economy and environment, in which each sector has different security unit, value, survival character and threat.¹⁰ However, in the case of this oil spill, it will be focused only on environmental security influencing much to human security.

Environment has been seen as referent object of security and environmental change has been seen as security risk. Environmental security is one of a number of new non-traditional security issues that have served to deepen the concept of security. One principle approach of environmental security is in which it can be seen as being about the impacts of human activities on the environment. This interpretation sometime also called “ecological security” emphasizes at least that it is ecosystem and ecological process that should be secured, and the principle threat to ecological integrity is human activity.¹¹

The environmental changes caused by many factors obviously can give much influence to welfare of individual and communities in those places for people are environmentally insecure in all sorts of ways and for all sort of reason. Commonly, the determinant of environmental insecurity is: where people live and the nature of environmental changes in those places, how environmental changes

¹⁰ Buzzan. B, Waever.O, & Wilde J. (1998). Security: A New Framework for Analysis. Lynne Rienner Publisher. Boulde London. P.1-7

¹¹ Collin. Allan.(2007).Contemporary Security Studies. Oxford University Press. p.183-189

affected the people around and people's capacity to adopt that environmental change.¹²

In this case, human and environmental security of Indonesia is comprehensively threatened by the following impacts brought by Montara explosion in Timor Sea. This is a threat that comes from outside the country as result of foreign actor activities, however direct and indirectly it has brought the damaging impact for Indonesia. The oil spills that pollute Indonesian territorial waters have emerged as dangerous disruption for the country especially for people living in East Nusa Tenggara province.

In the matter of Human Security, the people in that area were potentially being threatened for the loss of their livelihood sources. As reported by scientific research, the dangerous substance contains within the crude oil that polluted the water sea will also ultimately contaminate the marine biota including fish and seaward live within it. From the side of environmental security, the marine pollution has damaged the ecosystem of marine biota inside the water sea. Biology and non biological sources are harmed by dangerous substance of that crude oil spilling over Timor Sea. Overall, the sustainability of peoples and environmental sea are being risked in this great disaster.

Therefore, it becomes the responsibility of the government to protect the survival of its society especially for them who live in coastal area of NTT as the ultimate victim of this incident Then Indonesian Government must be consistent to keep and defend its national security including its ability to protect and secure

¹² Ibid.p.197

its physical identity, politics and culture from the interruption of other state. In this case, interruption of oil spill because of operational dereliction of company in Australian territory entering Indonesian territorial sea must be handled by the Indonesian government seriously.

E. Hypothesis

By considering my analysis through the theoretical framework above, then the hypothesis of this analysis is, "Indonesian government decided to propose compensation claim toward PTTEP Australia because of the demands from local NGO and supports from series arrangement consisted on national law.

F. Research Methodology

This research uses deductive method. It means that the framework of theory and concept are explored first then the hypothesis can be drawn. The hypothesis then will be proved through data and analysis.

The method of collecting the data is library research in which the data are secondary sources. Therefore, all data are taken from books, scientific papers, scientific journals, magazine, newspaper, website and other relevant data. Those data will be analyzed with the theories and concepts that are determined before. It is to prove that the hypothesis is accurate and finally answers the core problem. Although this paper uses the secondary data, the author selects the accurate data and checks the reliability of the data to accomplish the trustworthy research.

G. Scope of Research

In writing this research, the writer makes limitation related to the case of this marine pollution problem in Timor Sea. The research tries to analysis the data since the explosion in August 2009, until 2010. The limitation will facilitate the writer to explore and analyze the data and keep the research focuses on the determinant tracks. In making the limitation of this research the writer only focuses on the oil exploration in Timor Sea and marine pollution caused by the explosion of Montara oil field in Timor Sea with its large impacts for the environment and peoples around this area. Specifically the exact victims in this case are people in East Nusa Tenggara and the marine biota around this territorial water region. This is also limited on Indonesian government effort through its National Team Handling of Oil Spill in the Timor Sea under the responsibility of Department of Transportation and the Department of Environment to deal with this case. Overall, this research simply focuses on the relation between Indonesian Government with the responsible party that operated Montara oil field in the Timor Sea, PTTEP Australasia.

H. Writing system

Commonly, the explanation in this writing is divided into three chapters. Each chapter is also divided into subs chapter that explains more detail about everything related to the theme of this research, that is:

“INDONESIAN GOVERNMENT POLICY IN HANDLING THE IMPACT OF MARINE POLLUTION IN TIMOR SEA BY THE EXPLOSION OF PTTEP AUSTRALASIA’S OIL FIELD 2009-2010”

CHAPTER I: Introduction

This chapter, as the beginning of the chapter, explains about the basic elements of this research. This chapter includes the title determination, background and the problem background as the basic assumption for the topic of this research. This chapter also explains about a theory used by the writer related to the topic. The theory becomes important in the research because it provides the basic point of view of problem solving. This research tries to explain Indonesian efforts in handling the impacts of oil spill in Timor Sea through several relevant theories. The result is a hypothesis as the temporary result of the research. In this first chapter, there are also basic things such as writing objective, writing system and framework.

CHAPTER II: Oil and Gas exploration in Timor Sea

In this chapter the writer explains about the activity of oil exploration in the Timor Sea. It is continued by the incident of oil spill from the Australian Montara Well Head Platform drilling installation in the West Atlas Block operated by PTTEP Australasia in Timor Sea in which this oil has spilled over Indonesian territorial waters.

CHAPTER III: Marine pollution and its impacts

This chapter describes about the marine pollution that occurred in Timor Sea and particularly related to the case of oil spill with the impacts of this pollution for the survival of environmental sea and the coastal community around Timor Sea.

CHAPTER IV: Demands and Support to Seek for the Compensation

This chapter will be the focus of the research. This chapter directly analyses the demands of societal organization for the Indonesian Government to claims compensation toward PTTEP Australasia for their oil spill that has flowed over Indonesian water territory. This chapter will be continued by the explanation of economic and environmental loss of the Indonesia contributed by this incident of marine pollution. In addition, the national laws related to marine pollution problem also will be explained as the support that becomes an input for the government to make its decision. In addition, this chapter also includes the important study for the Government of Indonesia related to the success of Australian Government to get the compensation from Montara's operator,

CHAPTER V: Conclusion

This last chapter contains the conclusion of this research. From the fact explained above and through the relevant theory this thesis tries to take a conclusion as the result of the research. This conclusion is the answer of the main question in this research.