

## **CHAPTER V**

### **CONCLUSION**

Timor Sea which is the extension of Indian Ocean and situated between the Island of Timor and Australia becomes the maritime boundaries of three states: Australia, Indonesia and Timor Leste. The waters are known to have rich potential natural resources such as hydrocarbon reserve and high economic value of marine biota. Gas and oil reserves contained in the bottom of this water have made the Timor Sea as an exploration and investment destination for both local and foreign parties. Lots of exploration and development oil and gas projects have been developed continuously in this area. Since the discovery of petroleum reserves in the bottom of Timor Sea there were long disputes over its exploration right, especially in the area known as "Timor Gap" that involves Australia, Indonesia and finally East Timor.

However, the high rhythm of oil and gas exploration began threatening the sustainability of marine environment in these waters. Oil that spilled over the sea released from drilling wells or tankers and oil platforms carrying oil cargo were becoming the most potential contamination which brought very serious impacts of pollution for this waters area. The incident that recently occurred was an oil spill originating from one of the oil fields located within Australian territorial waters area.

The oil field that exploded on August 21<sup>st</sup>, 2009 was included in one of Montara development project operated by PTTEP Australasia, a subsidiary of

PTT Exploration & Production, a Thailand-based petroleum and natural gas explorer. The leakage of oil refineries which lasted for 74 days, after being successfully closed on November 3<sup>rd</sup>, 2009, has been spewing out 500,000 litter crude oil into the Timor Sea each day. However, although the leak was successfully closed, these oil spills were increasingly wide-spreading until eventually the flow of Montara's oil spill entered the Exclusive Economic Zone of Indonesia. According to the report of Indonesian Directorate of Marine Transportation, small patches weathered oil was seen entering Indonesian EEZ since September 1<sup>st</sup>, 2009. Meanwhile, Australian Maritime Safety Authority (AMSA) just announced its official report to Indonesian Government four weeks after the explosion in which the volume of crude oil had entered Indonesian EEZ.

This marine pollution has really brought serious impacts not only limited on environmental sustainability, but also the safety of coastal communities in Australia, Timor Leste and Indonesia. Particularly for Indonesia, the most affected community was the residents of East Nusa Tenggara province. The pollution has led to reduced catches of the fishermen by the number of dead fish found floating in the surface of Timor Sea and their seaweed production also decreased drastically due to the damage caused by the oil spill.

The complaints of NTT communities affected by the impacts of Timor Sea pollution were sounded by several local NGOs. A nongovernmental organization in East Nusa Tenggara has lodged a claim for a scientific evaluation of the long-term health damage that could result from last year's Timor Sea oil spill. However, due to the slow handling by the government, especially the central

government on the settlement of this case encourages the NGOs to urge the Government taking steps and a firm stance against the pollution. They urged the government to investigate immediately and prosecute the operator Montara to provide compensation of both the community and environmental destruction. Various ways were done by the NGOs as well, including sending an open letter to the government, renouncing the national team (PKDTML) that are considered too slow in completing their investigation tasks mandated by the government, and publishing their finding about the data and evidence through printed and electronic media.

The pressures of the NGOs were just met by the government on August 26<sup>th</sup>, 2010, a year after the incident occurred with the long investigation research conducted by PKDTML. The government represented by Advocated Team of Timor Sea's Oil Spill comes into a meeting with PTTEP Australasia as Montara operator to discuss compensation claim proposed by Indonesia. The decision of government to propose the compensation also referred to the provision of National Law and Environmental Act applied by Indonesia. The law obligates the polluter to bear the cost of losses suffered by the polluted party.

Nevertheless, although the first negotiating effort has not yet given any final result due to Montara's refusal over Indonesian claim forwarded by Indonesian Advocated Team the NGOs kept moving on demanding and supporting the government to persistently seek the payment of that claim from Montara. They asked the government to collect more accurate data and strengthen their negotiation strategy to deal with Montara party. Until entering the second

years of the oil spill incident, an effort to comply with claims for compensation has not reached any final agreement.

## **RECOMANDATION FOR THE GOVERNMENT OF INDONESIA**

Given that oil spill in the Timor Sea was very dangerous for a long time and the condition of society which will remain and continue dealing with environment, not just the sea but also the ecology as a whole, then the fulfillment of the indemnity actually must strive to be more serious. If the demand that have been pursued trough outside the court have not yielded tangible result by several refusal of Montara operator over claim forwarded by Indonesian advocating team, then Indonesian government should take the case to International court of justice. Since the first negotiations, the company has not indicated with any certainty if it would pay compensation proposed by Indonesian Government.

However, the step to bring this issue into International court shall be accompanied with strong and good preparation, either on the accuracy compensation value or verifiable evidence from the scientific research. The main issue that must be addressed relating to the pollution of Timor Sea is about the humanitarian issue, the disaster for Indonesia as a nation and state, for it highly concern of the national dignity. Indonesia as a state need to strengthen its bargaining position in International community in which particularly for this case Indonesia as a sovereign state should face a foreign corporation.