

The Indonesian Archipelagic Baselines: Technical and Legal Issues and the Changing of Environment

Tri, PATMASARI, INDONESIA,
BAKOSURTANAL,
aryomassari@yahoo.com

Eko, ARTANTO, INDONESIA,
BAKOSURTANAL,
e.artanto@yahoo.com

Sora, LOKITA, INDONESIA,
BAKOSURTANAL,
soralokita@yahoo.com

Sobar, SUTISNA, INDONESIA,
BAKOSURTANAL,
ssutisna@gmail.com

Chairul, HAFIDIN, INDONESIA,
BAKOSURTANAL,
chafidin2003@yahoo.com

Abstract

For the first time, Indonesia established a new set of territorial sea by introducing the concept of archipelagic baseline in 1957 through the Government Declaration of 13th December 1957, and further is promulgated in Law No. 4/Prp.1960. After entering into force of the UNCLOS 1982 in 1994, provisions of archipelagic States are defined in Part IV of the LOS Convention which has great significance for Indonesia. Now with the legitimacy of archipelagic State, Indonesia has enacted a new law on the Indonesian Territorial Water in 1996.

Subsequent revision to the Indonesian archipelagic baselines was made in later years, i.e. in 1998 and Indonesia published Government Regulation Nr. 61/1998 (GR. 61/1998) and in June 2002 GR Nr. 38/2002 was signed. The old provision of straight baseline from point to point is adjusted accordingly with the new straight archipelagic baseline as defined in accordance to Article 47 of the LOS Convention.

Even so, the latest development has to be made to the GR. 38/2002 in respect to the political decision in relation to the East Timor independence in 2000, the decision of International Court of Justice (ICJ) on Sipadan and Ligitan of December 2002, and the existence of natural features and low tide elevation. These present developments are now in undergoing process to revise the GR. 38/2002, so that the Indonesian archipelagic baselines will be soon submitted to the UN Secretariat General as demanded by Art. 16(2) UNCLOS 1982.

This paper concludes with some remarks that have been encountered by Indonesia in completing and maintaining its archipelagic baselines which shows some complexities in implementing Art 14 of UNCLOS. And we hope that our experiences could be shared for the purpose of making further development.