COUNTRY RESPONSIBILITIES FOR OIL PIPE LEAKAGE

Kinanti Sekarayu, Nur Azizah Hidayat
Faculty of Law Universitas Muhammadiyah Surabaya
Jl. Raya Sutorejo No.59, Dukuh Sutorejo, Kec. Mulyorejo, Kota Surabaya, Jawa Timur 60113
E-mail: kinanti.santoso@gmail.com

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Abstrak
There is a fact that the pollution of the marine environment in the bay region of Balikpapan is caused by a ship anchor that hit and is related to the oil refinery pipes at the sea floor. The purpose of this legal research is to find out what forms of liability must be given by the parties concerned and what legal mechanism to use in resolving the case. First, forms of state responsibility for the leaking of oil refineries owned by *PT. Pertamina* is in the form of compensation, restoring and overcoming pollution of the marine environment. Second, the mechanism used by *PT. Pertamina* and the MV Ever Judger Ship can go through litigation and non-litigation channels. The Indonesian government should be able to affirm the prevailing laws and regulations so that those who commit pollution are responsible for resolving environmental disputes.

Keywords: Environmental Pollution, Liability form, Sticky Settlement Mechanism

A. Introduction

The sea is a natural resource that has an abundance of benefits it contains for life on earth. In it, the sea has a high biodiversity, such as the large number of fish in the sea is an excellent source of protein for humans, the beauty of coral reefs as a counterweight to the marine ecosystem and home for small fish, as well as natural resources that are buried uder the sea, namely oil and gas which is.

beneficial to the wheels of human life. With various kinds of marine diversity, it is often utilized by humans who live on the coast in fulfilling food sources, livelihoods and other food items.

The definition of the sea itself, is the water space on earth that connects the land with land and other natural forms, the sea is a geographical and ecological unit along with all related elements, whose boundaries and systems are determined by national legal systems and international law. Sea in physical definition is a whole series of salt water that floods the surface of the earth. According to the legal definition of the sea

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is the entire sea of water that relates freely throughout the earth's surface[1].

Utilization of the sea is not only felt by the people on the coast in search of fish at sea as a source of livelihood or food, but countries around the world also use marine diversity for the benefit of science, recreation, tourism, culture and so forth. Sometimes the oceans also become boundaries between countries and other countries. Utilization of the developing sea in such a way, requires the world to impose regulations on seas that become a territorial sea of a country, national borders, open seas that have no land nearby, as well as good and right use of the sea in terms of exploring and exploiting the existing biodiversity on the sea.

Indonesia is also one of the countries that have taken part in utilizing biodiversity in the sea for the national interest. Indonesia, which is one of the world's archipelagic countries, has thousands of islands scattered throughout the sovereign territory of the State of Indonesia. In accordance with the facts above, the Government of Indonesia issued a statement known as the "Declaration of Juanda" December 13, 1957 which means that Indonesia declared to the world that the Indonesian sea (seas around, between, and within the Indonesian archipelago) became a unified territory of the Republic of Indonesia and stated that Indonesia adheres to archipelagic state principle so that inter-island seas are the territory of the Republic of Indonesia and are not included as a free zone[2].

Indonesia, which claims to be an archipelago, must be able to provide protection to the seas in Indonesian territory. In addition to providing marine protection, Indonesia can also enjoy its rights to its maritime territory protected by international law. The impact of rights guaranteed by international law creates an obligation for all entities outside Indonesia to protect the sea in Indonesian territory. However, in practice, entities outside Indonesia carry out intentional or unintentional sea destruction. These activities must be held accountable before the law through both national and international legal mechanisms.

The more extensive utilization and management of the sea and the continued development of technology make the exploration and exploitation of the sea increasingly high making the sea easily polluted from hazardous materials. Initially

[1] Narwati, E., & Sunyowati, D. (2013). *Buku Ajar Hukum Laut.* Surabaya: Airlangga University Press. (page 2)

[2] P. Joko Subagyo, (1993). *Hukum Laut Indonesia.* Jakarta: Rineka Cipta.

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a little pollution was not a serious problem because in essence the sea still has the ability to clean itself and maintain its own functions. Over time, the more sophisticated technological capabilities, the greater the impact arising for the sea. The depletion of natural resources and the reduced ability of the sea to cleanse itself because of the substances that enter the sea more and more dangerous, the consequences of marine management in the present time makes the marine environment dirty and damaged.[3]

One example of damage to the marine environment is the case of leakage of the oil refinery pipeline that occurred on March 31, 2018, which is located in Balikpapan, which is Pertamina's oil refinery pipeline. As a result of the leak of the refinery pipeline is the spread of crude oil throughout the sea area and the burning of fire in the middle of the sea in the bay of Balikpapan, where this crude oil has spread as far as 7km by damaging 86 ha of mangrove forests and reducing the water quality standard of 36,000 ha. Coastal residents were shocked by this incident, where marine animals died and killed 5 fishermen who were fishing. For this horrendous incident, a number of interested parties conducted an investigation into the related incident. In his investigation, it was discovered that the pipe had broken and was dragged as far as 120 (one hundred and twenty) meters from its initial position, and the cause of the broken pipe was the lego anchor of the MV Ever Judger ship with Panama flags which was attached to the pipes[4].

The MV Ever Judger ship itself is a coal carrier registered in the country of Panama, where the day before the incident the ship received coal to be transported to China at 78,000 MT. After getting permission to sail back to China, the MV Ever Judger departed after receiving guidance from a scout ship, but one hour after sailing the MV Ever Judger stopped right in the forbidden area due to high tides that prevented him from leaving the Balikpapan bay safely. The MV Ever Judger Vessel asks the scouting ships to pass to help the MV Ever Judger exit the Balikpapan Bay and can begin their voyage to China.

The scout ship suggested to release the anchor but only as deep as 1 meter from the surface of the sea so that the ship was not carried by the currents and said to be careful in lowering the anchor because the

[3] Arly Sumanto, (2013). *Penyelesaian Sengketa Pencemaran Lintas Batas Akibat Kebocoran Sumur Minyak Montara Australia Menurut Konvensi Hukum Laut 1982.* Malang: Universitas Brawijaya

[4] Ridwan Aji Pitoko, (2018). *Jangkar Diduga Jadi Penyebab Bocornya Pipa Pertamina di Teluk Balikpapan.* Jakarta: Kompas

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ship's weight and size were above 1,000 GT, where ships with such weight and size had a great risk can destroy pipes and submarine cables. Why the anchor could hit the pipe was due to a communication error between the skipper and the ship's anchor guard, so the anchor guard dropped the anchor as deep as 1 shackle or 27.5 meters below sea level. As a result the anchor is stuck to the pipe, and when the ship is pushed a little towards the south the anchor is stuck and then attracted and also pull the pipes under the sea[5].

In the investigation process, many parties questioned whether Pertamina's underwater pipeline meets the requirements? PT. Pertamina responds and ensures that the leaked pipe has been placed according to related procedures and regulations. The leaked pipe has been placed since 1998 and is at a depth of 25 meters below sea level or on the seabed with a cement casing so that the pipe does not rust and is also a ballast. This is in accordance with article 13 paragraph (3) of the Decree of the Minister of Mines and Energy No. 300.K / 38 / M.PE / 1997 where there are 2 provisions regarding the placement of the oil distribution pipeline, the first if the seabed is less than 13 meters then the pipe must be planted at least 2 meters below the seabed and equipped with a ballast system. The second is if the depth of the seabed is 13 meters or more, then pipes can be placed on the sea floor with ballast systems. Data from the underwater map states that the depth of the shallow waters in Balikpapan is 14 meters, so that Pertamina's pipes meet the provisions in the installation/ planting of petroleum distribution pipes[6].

For the above incident where the MV Ever Judger has violated the rights in international law related to the right of peace crossing which the Balikpapan bay is classified as internal water and is not a free sailing area. The result of the oil spill also polluted the waters and disrupted the mobility of the coastal residents who were mostly fishermen.

According to Dixon the criteria of the Internationally Wrongful Act are that they must violate international law.[7] International law has restricted actions that are legal or do not violate international law, this is binding on countries. In theories of international law that international law is binding based on the willingness of

[5] Adi M. Idhom, (2018, April 26). *Tirto.id*. Retrieved from https://tirto.id/temuan-polisi-soal-sebab-pipa-minyak-bocor-nakhoda-jadi-tersangka-cJsP

[6] Fariz Fadillah,(2018, April 17). *Bisnis.com*. Retrieved from http://m.bisnis.com/kalimantan/read/20180417/407/785099/pertamina-kalim-letak-pipa-distribusi-sudah-sesuai-ketentuan

[7] Martin Dixon, (2013, September). *Textbook on International Law*. Oxford University Press : Oxford, United Kingdom

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countries to comply with international legal norms, which international law itself comes from the will of the state and applies because it is approved by the state. Based on internationally wrongful act in which responsibility is born for the activities carried out by one country and results in losses for other countries.

State responsibility has been expressly stated to be limited to "the accountability of states for actions that are internationally illegal" which means the source of that country's responsibility is an act that violates international law.[8] In International Law where the state accountability mechanism arises due to the existence of the Internationally Wrongful Act which in the case above involves many parties who are the cause of the shadow of the leakage of PT. Pertamina, like where the Coastal Guard allows the MV Ever Judger to lower its anchorage where it should stop is a restricted area to lower anchors.

In the principles of International Law of the Sea, one of them is the principle of the freedom of passenger which is specific to all foreign ships crossing the sea lanes belonging to Indonesia that the coastal state must not interfere in the slightest with the limitation of rights for flagged vessels in crossing the national sea lane provided that the flagged ship is subject to its national law which was taken over by a coastal country, which based on the case above the MV Ever Judger has violated the crossing rights granted by its national law by damaging Pertamina's oil refinery pipeline.

First, What is the state's responsibility for the leak of the oil refinery pipeline owned by PT. Pertamina? Second, what legal mechanism can be used by PT. Pertamina or MV Ever Judger as a form of responsibility?

B. Research Methods

This research method uses a statute approach. What is meant by the statutory approach is an approach using legislation and regulations relating to the legal issues being faced.

C. Discussion

The principle of state accountability according to international law, has developed into one of the core principles of international law. This principle then developed rapidly after the era of world war. There are several UN conventions that place the subject of state law as an entity that can be held accountable, such as the Stockholm Declaration of 1972 where the results of its formulation state the

[8] J.G. Starke, (1995). *Pengantar Hukum Internasional*. Jakarta : Sinar Grafika

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obligation of the state to account for its actions[9].

In Article 21 of the 1972 Stockholm Declaration it reads: "States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or areas beyond the limits of national jurisdiction. "

According to International Environmental Law, there are two types of responsibilities imposed on the State, namely Strict Liability and Absolute Liability. Strict Liability is absolute responsibility with limited compensation, while Absolute Liability is absolute responsibility with full compensation. Without proving the element of error in advance because in International Environmental Law see an act of its consequences, namely environmental pollution without regard to the factor of error there are several principles that can be used by the state to hold the parties accountable for environmental damage caused by the actions of the parties[10].

Besides being seen from several international conventions, the United Nations (UN) through the International Law Commission, since 1949 has focused on formulating the legal basis in the State Responsibility, so that it can anticipate losses arising for a country even without the existence of international agreements that bind the parties of the country concerned[11]. An international activity of a country that is carried out either intentionally or unintentionally that causes harm, then state responsibility will emerge as a form of behavior that violates international rules. Much of international law governs the issue of state accountability, and what must be compensated for actions that harm other countries.

The 1972 Stockholm Declaration is a UN Conference that discusses the human environment, has 26 principles and guidelines for humans to maintain and improve the quality of their environment. This declaration not only contains the basics and details of resolutions for relevant

[9] Deni Bram, (2011). *Pertanggungjawaban Negara Terhadap Pencemaran Lingkungan Transnasional*. Jurnal Hukum Universitas Pancasila Vol. 2 No. 18, Jakarta, hal. 200-201.

[10] Puspoayu, Hakim, Bella, (2018). *Tinjauan Yuridis Pertanggungjawaban Pencemaran Minyak Di Wilayah Teluk Balikpapan*. Jurnal Hukum Ius Quia Iustum Faculty of Law UII Vol. 25 No. 3, Jogjakarta, hal. 564-565.

[11] Deni Bram, (2011). *Pertanggungjawaban Negara Terhadap Pencemaran Lingkungan Transnasional*. Jurnal Hukum Universitas Pancasila Vol. 2 No. 18, Jakarta, hal. 200-201.

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institutions and financial planning, but also contains 109 recommendations for action plans on the human environment[12].

In opening the Stockholm Declaration 1972 mandated the improvement, preservation and protection of the environment for now and future generations. This conference calls on the Government and the community and international cooperation to work together to preserve and improve the environment for the achievement of environmental goals[13].

Principle 6 of the 1972 Stockholm Declaration which reads: "The discharges of toxic substances or of other substances and the release of the heat, in such quantities or concentrations as to exceed the capacity of the environment to render them harmless, must be halted in order to ensure that serious or irreversible damaged is not inflicted upon ecosystems. The just struggle of the peoples of all countries against pollution should be supportive. "

In principle 6 of the 1972 Stockholm Declaration states that hazardous materials which are disposed of and flowing in the sea will be very dangerous for the marine ecosystem itself and the people who use the sea to sustain their lives, and it is hoped that all levels of society will contribute to supporting the pollution of the marine environment.

Principle 7 of the 1972 Stockholm Declaration states: "State shall take all possible steps to prevent pollution from the seas by substances that are liable to create hazards to human health, to harm living resources and marine life, to damage amenities or to interfere with other legitimate uses of the seas."

Basically the principles in the 1972 Stockholm Declaration have imposed an obligation on the State to make efforts to prevent environmental pollution, the State must play an active role in preventing both formally and materially. If the 1972 Stockholm Declaration are basic principles that do not have legally binding, then UNCLOS 1982 has binding power for the countries of the world[14].

Article 192 UNCLOS 1982 states: "States has the obligation to protect and preserve the marine environment." Article 194 paragraph (1) 1982 UNCLOS: "States shall take, individually or jointly as appropriate, all measures consistent with this Convention that are necessary to prevent, reduce and control pollution from the marine environment from any source,

[12] Davilla Prawidya Azaria, (2014). *Perlindungan Lingkungan Laut Samudra Pasifik Dari Gugusan Sampah Plastik Berdasarkan Hukum Lingkungan Internasional.* Kumpulan Jurnal Mahasiswa Fakultas Hukum Universitas Brawijaya, Malang, hal. 6-9

[13] ibid

[14] ibid

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using for this purpose the best practice means at their disposal and in accordance with their capabilities, and they will endorse to harmonize their policies in this connection. "

In article 94 paragraph (1) UNCLOS 1982 states: "Every State shall effectively exercise its jurisdiction and control in administrative, technical and social matters over ships flying its flag."

In Article 94 paragraph (1), it states that each flagged vessel is the responsibility of the flag state, which within the ship applies the jurisdiction of the flag state. And it is the duty of the flag state to take responsibility for all things that harm others as a result of all activities originating from its flagged vessels.

In article 94 paragraph (7) UNCLOS 1982 also made clear about the responsibilities of the flag state which requires the flagged state to be responsible for any problems related to flagged vessels. Thus, the State is obliged to guarantee that any activities carried out in its jurisdiction will not result in environmental pollution beyond its jurisdiction.

"Each State shall cause an inquiry to be held by or before a suitably qualified person or person into every marine casualty or incident of navigation on the high seas involving a ship flying its flag and causing loss of life or serious injury to the nationals of another State or serious damage to ships or installations of another State or to the marine environment. The State flag and the other State shall cooperate in the conduct of any inquiry held by that other State into any such marine casualty or incident of navigation. "

In line with the articles in UNCLOS 1982, article 1 of the Draft Articles on Responsibility of the State for Internationally Wrongful Acts adopted by the International Law Commission (ILC) in 2001 reads: "... every internationally wrongful act of a State entails the international responsibility of that State. "which means that every State's actions that are internationally wrong will be followed by the State's international responsibility.

A statement in UNCLOS 1982, determined that countries are responsible under international law for fulfilling obligations to protect and maintain the marine environment. Countries are obliged to regulate in their national legal system, for compensation or other replacements in the event of damage due to pollution of the marine environment by people and legal entities within the jurisdiction of that country. Pollution that occurs in the territorial waters of a country then, in order to monitor pollution that occurs from all activities within its national jurisdiction, most liabilities for liability and

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compensation are borne by national legislation with due regard to relevant international rules.[15]

Article 16 of the 1992 Rio de Jainero Convention which reads: "National authorities should endeavor to promote the internalization of environmental costs and the use of economic instruments, taking into account the approach that the polluter should, in principle, bear the cost of pollution, with due regard to the public interest and without distorting international trade and investment. "

Indonesia demanded compensation to Panama for the case of the leak of a refinery pipeline, where the lego anchor of the MV Ever Juger Ship broke and dragged the pipeline until crude oil spread and polluted the Balikpapan bay area, where the MV Ever Judger was Panama-flagged. And what has been explained above that Panama is obliged to compensate Indonesia for the case, and assist Indonesia in tackling pollution of the marine environment.

In the 1982 UNCLOS which Indonesia had ratified into its national law, namely Law No. 17 of 1985 concerning the 1982 UNCLOS Ratification, which has been explained that countries can make their own national laws related to all their authorities in protecting and exploiting their maritime territories but with the provisions which has been stated by international law.

Before the case of the oil pipeline leaked, Indonesia adopted the rules of the 1972 Stockholm Declaration and included it in Law Number 32 of 2009 concerning Environmental Maintenance and Management, at 1982 UNCLOS and included it in Law Number 6 of 1996 concerning Indonesian waters, and Law Number 32 of 2014 concerning Maritime Affairs, as a form of Indonesia's commitment in carrying out its activities in the maritime area.

Article 87 of Law 32 of 2009 concerning Environmental Protection and Management has adopted the rule of law of the 1972 Stockholm Declaration and the 1992 UNCED Rio de Janeiro where the state's responsibility for all sources of error is Strict Liability. Namely, absolute liability without the need for prior investigation.

In the case of the oil refinery pipeline leaking in the Balikpapan Bay region, the MV Ever Judger is a foreign-flagged vessel, Panama. In the laws and regulations in Indonesia that foreign ships may pass through Indonesian territorial waters peacefully and continuously without stopping. In article 12 paragraph (2) of Law

[15] Narwati, E., & Sunyowati, D. (2013). *Buku Ajar Hukum Laut.* Surabaya: Airlangga University Press

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Number 6 of 1996 concerning Indonesian Waters, states:

"Passing by foreign vessels must be considered to endanger the peace, order, or security of Indonesia, if the ship while in territorial sea and / or in the waters of the archipelago carries out one of the activities prohibited by the Convention and other international laws." only allowed to cross without doing anything detrimental to Indonesia, even prohibited from lowering anchors especially dangerous areas because it is a crossing of sea pipes. However, in an emergency decreasing the anchor is allowed with certain restrictions.

Facts that have been investigated by the authorities, that the MV Ever Judger is allowed to drop anchor in the forbidden area but only limited to 1 meter above sea level by the Coastal Gate so that the MV Ever Judger is tossed around Balikpapan because of bad weather. The negligence of the ship's captain and miscommunication with the anchor operator caused the anchor to dive too deep and break the oil distribution pipeline below.

Crude oil that will be distributed from the Lawe-Lawe drilling station spreads and causes serious pollution in the Balikpapan bay area. Recalling that Indonesia is a rule of law, the consequence of a rule of law is to place the law above all state and social life. The state and society are governed and governed by law, not ruled by humans[16].

Indonesia which has been harmed by the incident where, spilled oil which caused serious environmental pollution and caused casualties from coastal communities, asked for compensation to Panama which is a country that houses the MV Ever Judger.

In article 90 paragraph (1) of Law No. 32 of 2009 concerning Environmental Protection and Management states: "Government agencies and regional governments responsible for environmental matters have the authority to sue for compensation and certain actions against businesses and / or activities that cause environmental pollution and / or damage resulting in environmental losses." From the above article, that the state (government and regional government) can submit compensation for activities that cause pollution of the marine environment in the sovereign territory of the Indonesian state.

Article 87 paragraph (1) of Law No. 32 of 2009 reads "Every person responsible for a business and / or activity that commits an illegal act in the form of pollution and / or environmental damage that causes harm

[16] Sawitri, Bintoro, (2010). *Sengketa Lingkungan dan Penyelesaiannya.* Jurnal Dinamika Hukum Vol. 10 No. 2, Purwokerto, hal.165.

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to others or the environment is obliged to pay compensation and / or take certain actions. ”In this article, the person responsible for an activity or business can be held liable for the loss of the state, in the sense that Indonesia can sue the boat captain who is the person in charge of sailing activities and who gives permission to lower the anchor of his ship, but Recalling the correlation between national law and international law which is in accordance with Article 94 Paragraph (7) of the 1982 UNCLOS Ratification that the flag state will be responsible for all activities / incidents occurring on its flagged ship[17].

Of the cases that occurred in the Balikpapan Bay region, sea pollution caused by the leak of the oil refinery pipeline where the state should be present in protecting its marine areas, marine ecosystems and citizens from hazards that threaten the preservation and health of the sea and coastal communities. State responsibility for leaking oil refinery pipelines owned by PT. Pertamina is seen from the perspective of national law as in article 85 paragraph (1) of Law Number 32 of 2009 in conjunction with article 87 paragraph (1) of Law Number 32 of 2009 ", where the article contains settlement of environmental disputes in which there are forms of liability like

1. Compensation,
2. Recovery actions (recovery activities are regulated further in article 54 UUPPLH) and control (control activities are regulated further in article 53 UUPPLH) pollution of the marine environment
3. Certain actions to guarantee that pollution and / or damage will not recur
4. Actions to prevent negative impacts on the environment.

Law Number 32 of 2014 concerning Maritime Affairs also gives obligations to the state towards its marine environment, that the state must make efforts to protect the marine environment. This effort to protect the marine environment as in article 50 of Law Number 32 of 2014 concerning Maritime Affairs states that "the Government undertakes efforts to protect the marine environment through: a. marine conservation; b. controlling pollution of the marine environment; c. marine disaster management; d. prevention and control of pollution, damage and disaster. "

Settlement Mechanism According to National Law.

[17] Narwati, E., & Sunyowati, D. (2013). *Buku Ajar Hukum Laut.* Surabaya: Airlangga University Press.

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In the prosecution of Indonesian compensation for the incident of the leakage of an oil refinery pipeline, in which the locus delicti for the incident entered Indonesia's internal water which is subject to national legal jurisdiction. And as in UNCLOS 1982 that the state was given the freedom to regulate the protection and control of pollution of the marine environment in its national law. Therefore, Indonesia has the right to demand compensation from Panama using its national legal mechanism. In resolving these disputes, Indonesia uses the UUPPLH, Maritime Law and other relevant laws and regulations.

Article 84 of the UUPPLH states:

(1) Settlement of environmental disputes can be reached through the court or outside the court.

(2) The choice of resolving environmental disputes is made voluntarily by the parties to the dispute.

(3) A lawsuit through a court can only be taken if the effort to settle a dispute outside the chosen court is declared unsuccessful by one or the parties to the dispute.

In Article 85 of the UUPPLH, that in settling the dispute, it can be through an outside court or court. The law states that resolving disputes will take precedence over using mechanisms outside the court, and peacefully. The court mechanism will be used if the mechanism outside the court does not reach mutual agreement.

Dispute resolution mechanisms outside the court have various types and stages:

1) Negotiations
2) Mediation
3) Arbitration

Out-of-court Environmental Dispute Resolution

Article 85 UUPPLH:

(1) Settlement of environmental disputes outside the court is carried out to reach agreement on:

a. the form and amount of compensation;
b. recovery measures due to pollution and / or damage;
c. certain actions to guarantee that pollution and / or damage will not be repeated; and / or
d. actions to prevent negative impacts on the environment.

If in the compensation suit submitted by Indonesia to the MV Ever Judger and Panama ships it cannot be carried out peacefully, according to the rules in article 85 of the UUPPLH, inevitably Indonesia will sue the Ever Judger and Panama MV ships through litigation, namely filing a civil suit (replace losses) in a district court in the Indonesian territory.

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Based on the translation of the dispute resolution above, in national law specifically article 85 of the UUPPLH in settling disputes over claims for compensation where it is preferred to resolve the issue the parties can choose to go through a voluntary method, but if they want to resolve it through the trials in article 85 paragraph (3) The UUPPLH states that settlement through a court can only be carried out if the resolution of a dispute through an outside court does not produce results or fails.

Settlement Mechanism According to International Law

The settlement of the case of a leak in a refinery pipeline in the Balikpapan bay area uses international legal instruments if the MV Ever Judger and Panama do not want to follow what Indonesian national law has said, and are reluctant to comply with Indonesian demands that sue Panama using its national law as a legal choice in resolving disputes. Then the settlement using international legal mechanisms becomes another way for the resolution of disputes between Indonesia and Panama as a form of Indonesian efforts to sue Panama for compensation for the leakage of oil refinery pipelines that pollute the inland sea areas of Indonesia.

The way to resolve environmental disputes internationally is usually divided into 2 groups, namely diplomatic-political dispute resolution and adjudicational-legal settlement. Experts like Zou Keyuan, J.G. Merrills, and Anne Peters also divided international environmental dispute resolution into two groups, with the same terms, namely political dispute resolution and legal dispute resolution[18].

Indonesia and Panama are fellow members of the United Nations which require both parties to comply and the rules contained in the United Nations are binding on their members. If both disputes cannot be resolved by the settlement of national law of one country, international law will be present as a substitute for national law in the resolution of the case. In international disputes, the provisions of article 2 paragraph (3) of the UN Charter must consider the following: "All Members shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered."

Article 2 paragraph (4) of the UN Charter

[18] Wijoyo, S., & Efendi, A. (2017). *Hukum Lingkungan Internasional.* Jakarta: Sinar Grafika.

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"All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations."

In connection with article 2 paragraph (3) and paragraph (4) of the UN Charter which requires all UN member countries that are in dispute to choose ways of resolving international disputes peacefully and refrain from using violent means, namely by threat or use weapons in dispute resolution[19]. The obligations of states to resolve disputes peacefully are further regulated in article 33 of the UN Charter, as follows:

The parties to any dispute, the continuance of which is likely to endanger the maintenance of international peace and security, shall, first of all, seek a solution by negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice.

In 1982 UNCLOS and the 1972 Stockholm Declaration did not mention how the settlement of disputes that occur if there are environmental disputes resulting from pollution of the marine environment. In the 1972 Stockholm Declaration and 1982 UNCLOS only focused on the state's responsibility for environmental pollution and the country's obligations in terms of preserving and managing environmental pollution.

Article 25 of the 1992 Riou de Janeiro Declaration states as follows: "States shall resolve all their environmental disputes peacefully and by appropriate means according to the Charter of the United Nations."

The ways of resolving disputes according to Suparto Wijoyo and A'an Efendi in the book International Environmental Law, are as follows:

1) Negotiations
2) Mediation
3) Conciliation
4) Inquiry
5) Good Services
6) Arbitration

If the peaceful settlement of a case in accordance with the provisions of international law is not going well or fails, another alternative is that Indonesia must report to the IMO (International Maritime Organization) so that in the next meeting the case experienced by Indonesia gets a response and is discussed at the IMO meeting. When the IMO Indonesia is not

[19] ibid

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satisfied, then Indonesia can file an international lawsuit through the International Court of Justice[20].

Based on article 93 of the UN Charter, that every member country of the United Nations is a member or party to the Statute of the International Court of Justice, so that every country that is a member of the United Nations has the right and qualifies to become a party to a dispute in the International Court of Justice. However, this does not mean that all member states of the United Nations or members of the Statute of the International Court of Justice are subject to the jurisdiction of the International Court of Justice, because in the resolution of disputes this is facultative or optional.[21]

In filing a case to the International Court, it can be done in 2 ways, namely: First, there is an agreement between the parties to the dispute to resolve it in the international court, then the case can be entered with notification through the Registrar of the International Court of Justice. Second, the case can be filed unilaterally from the parties to the dispute in writing and addressed to the Registrar of the International Court of Justice.

Case Inspection Program in the hearing consists of 2 parts, namely written examination and oral examination. In written examination is written answers between the plaintiff and the defendant called pleading. After the written examination, an oral examination will then be conducted. This oral examination was conducted by examining witnesses and expert witnesses. During this oral examination, representatives of the parties, legal advisors and advocates can be asked. After all examinations are complete, the trial will be adjourned to take a decision. This decision is made by way of voting among judges who take part in hearings that are conducted in a closed and confidential manner in which the decision is determined by majority vote. The decision of the International Court is final and binding.

Based on the conclusions above, in resolving disputes between countries, the United Nations as the body / institution that oversees countries advises countries to settle them peacefully in accordance with the provisions of Article 33 Paragraph (1) of the UN Charter where in resolving disputes through peaceful channels there are several ways such as negotiation, mediation, conciliation, good services, arbitration and others. If the peaceful resolution of disputes does not produce the results of the parties to the dispute are

[20] ibid

[21] ibid

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welcome to bring their dispute to the International Court of Justice in Den Haag.

D. Conclusion

From the description above it can be concluded, First, the form of state responsibility for the leakage of PT.Pertamina's oil refinery pipeline is in accordance with what is regulated in article 85 paragraph (1) of Law Number 32 of 2004 concerning Environmental Maintenance and Management, namely "Settlement of environmental disputes life outside the court is carried out to reach agreement on: a. the form and amount of compensation; b. recovery measures due to pollution and / or damage; c. certain actions to guarantee that pollution and / or damage will not be repeated; and / or d. actions to prevent negative impacts on the environment.

Second, the mechanism chosen by PT.Pertamina and the MV Ever Judger Ship in resolving environmental disputes, using the national law primat as in article 84 of the UUPLH, that in resolving environmental disputes can be carried out with two mechanisms namely through non-litigation channels as in article 85 UUPLH and litigation in article 87 UUPLH. Whereas dispute resolution uses the primat international law mechanism there are 2 pathways, peaceful dispute resolution such as negotiation, mediation, conciliation or arbitration (article 33 paragraph (1) of the UN Charter in conjunction with article 279 of UNCLOS 1982) or dispute resolution through a lawsuit at the international sea court or court international (article 93 paragraph (1) of the Statute of the International Court of Justice jo article 284 UNCLOS 1982)

After discussing the case above, the author has a number of suggestions related to the issues that have been discussed:

First, realizing how important the role of the sea in the ecological balance in Indonesia and the importance of the sea in the lives of coastal communities, it is necessary to have regular maintenance, maintenance and management that are efficient, effective and sustainable in accordance with applicable laws and regulations.

Second, the government also promotes to the public ways to prevent, reduce pollution of the marine environment, and resolve disputes over the pollution of the marine environment. By having this knowledge as a function of control for the community in supervising what activities can harm the marine environment itself.

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