

INTISARI

Putusan *Permanent Court of Arbitration* terkait sengketa yang terjadi di Laut Cina Selatan antara Filipina dengan Tiongkok beberapa waktu lalu sempat menimbulkan pro dan kontra. Beberapa pihak yang pro terhadap putusan tersebut mengatakan bahwa *Permanent Court of Arbitration* telah tepat memutus sengketa mengacu pada mekanisme penyelesaian sengketa dalam *The United Nation Convention On The Law Of The Sea 1982*, khususnya dalam hal arbitrase sebagai sarana alternatif penyelesaian sengketa, apabila tidak tercapainya kesepakatan melalui jalur diplomatik. Namun di sisi lain beberapa pihak mengatakan Putusan *Permanent Court of Arbitration* tersebut telah masuk pembahasan sengketa wilayah teritorial suatu negara. Disamping itu, pada aspek formil *Permanent Court Of Arbitration* sebagai badan arbitrase tidak disebutkan secara eksplisit dalam *The United Nation Convention On The Law Of The Sea 1982*.

Penelitian dalam Penulisan Hukum berikut bertujuan untuk menganalisis permasalahan di atas, dengan mendasarkan khususnya pada ketentuan penyelesaian sengketa dalam *The United Nation Convention On The Law Of The Sea 1982*, serta beberapa sumber hukum internasional lainnya seperti konvensi dan doktrin. Pembahasan terkait mekanisme penyelesaian sengketa berdasarkan pada *The United Nation Convention On The Law Of The Sea 1982* dan Kewenangan Mengadili *Permanent Court of Arbitration* Terhadap Sengketa Laut Internasional, diharapkan dapat menjawab sejauh mana lingkup pokok sengketa yang diperbolehkan untuk diputus oleh *Permanent Court Of Arbitration*, hingga keabsahan lembaga ini secara formil dalam memutus suatu sengketa laut internasional.

Berdasarkan hasil pembahasan, diperoleh hasil sebagai berikut: **Pertama**, bahwa mekanisme penyelesaian sengketa wilayah berdasarkan *The United Nation Convention On The Law Of The Sea 1982* secara umum dikenal dengan dua cara yakni *Traditional Based Consent* dan *Mandatory Procedures*. Dimana khususnya untuk *Mandatory Procedures* dikenal pembatasan dan pengecualian. **Kedua**, kewenangan *Permanent Court of Arbitration* memang tidak disebutkan secara eksplisit dalam *The United Nation Convention On The Law Of The Sea 1982*. Akan tetapi pada kasus ini, menurut pendapat peneliti setelah menimbang beberapa bukti, tidak ditemukan penolakan atas badan arbitrase tersebut. Tiongkok sebagai pihak yang dituntut, dalam pernyataannya tidak menolak *Permanent Court of Arbitration* sebagai badan arbitrase yang berwenang memutus sengketa dalam kasus Laut Cina Selatan. Disamping itu terkait anggapan Putusan *Permanent Court of Arbitration* telah memasuki lingkup Wilayah Teritorial suatu negara, adalah tidak tepat. Oleh karena itu, kesimpulan dari penelitian dalam Penulisan Hukum ini, peneliti berpendapat *Permanent Court of Arbitration* sudah tepat dan berwenang dalam mengadili kasus sengketa Laut Cina Selatan.

Kata Kunci : *Kewenangan Mengadili, Permanent Court of Arbitration, United Nations Convention on The Law of The Sea 1982 (UNCLOS-1982)*

ABSTRACT

The Permanent Court of Arbitration's ruling over disputes that occurred in The South China Sea, between the Philippines and China a few time ago provoked pros and cons. The pro-parties say that the Permanent Court of Arbitration has appropriate disputes referring to the dispute resolution mechanism in The United Nation Convention On The Law Of The Sea 1982, particularly in the case of arbitration as an alternative means of dispute resolution, in the absence of an agreement through Diplomatic-path. On the other hand, the others say that Permanent Court of Arbitration is actually has entered the discussion of territorial disputes. In addition, the formal aspect of the Permanent Court Of Arbitration as an arbitration body is not explicitly mentioned in The United Nations Convention On The Law Of The Sea 1982.

The research follows the terms of the dispute resolution in The United Nations Convention on The Law Of The Sea 1982, as well as some other sources of international law such as convention and doctrine. Furthermore, it is expected to respond that the disputes allowed to be terminated by the Permanent Court of Arbitration. This thesis would also show the legality of this body over the international maritime dispute.

According to the research, the following results are obtained: First, that the dispute resolution mechanism based on The United Nations Convention On The Law Of The Sea 1982 is generally known by two ways, namely Traditional Based Consent and Mandatory Procedures. Where in particular to Mandatory Procedures are known restrictions and exceptions. Secondly, the authority of the Permanent Court of Arbitration is not explicitly mentioned in The United Nation Convention On The Law Of The Sea 1982. However, in this case, after weighing some evidence, there is no refusal to this arbitration body. In this case, China as the party charged, according to their position paper does not reject the Permanent Court of Arbitration as the arbitration body authorized to rule upon the dispute in the case of the South China Sea. In addition, regarding the opinion that the Permanent Court of Arbitration Decision has entered the territorial issue, has proven to be unjustified . At the end, could be confirmed that The Permanent Court of Arbitration is appropriate and authorized in adjudicating the South China Sea dispute case.

Keyword : Authority, Permanent Court of Arbitration, *The United Nations Convention on The Law of The Sea 1982 (UNCLOS-1982)*