

Key Words : Peaceful Settlement Dispute
International Court of Justice
or Treaty of Amity and
Co-Operation (ASEAN)

ABSTRACT

The peaceful settlement of international dispute through International Court of Justice (ICJ) which Indonesia and Malaysia have been doing can be a precedent, because the parties involved in the dispute has been bound with the Treaty of Amity and Co-Operation South East Asia, and they are countries in the same area.

The consideration of both countries the settle the dispute in front of ICJ isn't effective and doesn't reflect the solidarity of ASEAN, because the settlement through international court of justice needs long time and its decision is final or can't be appealed. Furthermore, there will be a winner and a loser as a final consequence from the decision of the court. The loser, certainly, will be ashamed and be in communicated from constellation of international polities.

The common agreement of the parties the settle this dispute in front of ICJ has strong relation with the jurisdiction of the court to try and to decide the dispute remanded to it. As a judicial organ, ICJ has full competence to try and to decide the dispute.

The jurisdiction of ICJ doesn't have compulsory character, except the parties of the dispute has consent to settle their dispute in front of it. So, it depends on consent of the parties.

In order to know that a country has consent litigate or to settle its dispute in ICJ, there are two important things need to study, i. c. agreement and unilateral declaration to accept or to approve the compulsory jurisdiction.

Indonesia and Malaysia have made special agreement to the settle the dispute of Sipadan - Ligitan Islands in front of ICJ. Therefore, ICJ has jurisdiction to try and to decide this dispute.

Whatever decision of ICJ, the parties should obey it because the decision in final or can't be appealed. But, although the decision has been made or expressed by the court, the statutes of the court don't contain regulations that can force the parties which don't want to important the decision, in order to commit it. Consequently, the decision doesn't have meaning and locks efectivity. Whereas, according to U. N. Charter and Treaty of Amity and Co-Operation South East Asia, the dispute settlement through ICJ one of many alternatives that can be chosen by the countries for setting their dispute.

This theses tries to disclose the consideration of Indonesia and Malaysia the settle their dispute on Sipadan – Ligitan Islands in front of ICJ and the jurisdiction of the court concerning this dispute.