

Tinjauan penerapan asas okupasi efektif dalam sengketa kepulauan paracel di laut China Selatan antara Republik Rakyat China dan Vietnam = State practice review the application of effective occupation principle on the paracels islands in the south China Sea dispute between people s republic of China and Vietnam

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Abstrak

ABSTRAK

Kehadiran klaim nine-dash-line Republik Rakyat China membuat suasana politik di wilayah Laut Cina Selatan memanas akibat sengketa wilayah yang tak kunjung terselesaikan sejak dekade 1970 hingga saat ini. Masalah ini berkembang seiring ditemukannya potensi kekayaan alam di wilayah perairan Kepulauan Paracel. Kondisi ekonomi Vietnam yang sedang dilanda krisis global pasca perang saudara dan unifikasi menjadikan kepentingan potensi ekonomis yang terkandung di Paracel sebagai jalan keluar dari krisis ekonomi. Di sisi lain, Hukum Internasional mengakui status kepemilikan suatu Pulau kepada negara tertentu melalui praktik pemenuhan asas okupasi efektif. Asas ini merupakan suatu preseden yang berkembang dari waktu ke waktu sejak kasus Putusan Arbitrase Las Palmas hingga kasus Putusan Sipadan dan Ligitan. Lewat metode okupasi yang efektif suatu kedaulatan negara dimanifestasikan lewat tindakan-tindakan damai yang secara terus menerus dalam periode penguasaan negara atas wilayah sengketa.

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ABSTRACT

The presence of nine dash line claim by People's Republic of China driven tensions to heat up the South China Sea as result of the unsettle territorial dispute since the 1970's decades to present. The situations have developed since the discovery of oil potentials and other natural resources contained in the Paracels seas by States. Vietnam's conditions is currently falling under the global economic crisis as a result of the Vietnam war and unification of the South and North Vietnam that produce the interests for such natural exploration of the Paracels waters. In the other side, International Law approves the right of territory of an island belong to the State that has exercised the practices of effective occupations principle. The principle is valid as a precedent that developed from time to time since the Las Palmas arbitration case until the Sipadan and Ligitan islands disput ruled out by the International Court of Justice. Through exercising the method of such effectivites, a sovereign state is recognised its will to manifest the acts of peaceful display in a continual control over the dispute islands.