

ABSTRAK

Seiring dengan perkembangan dunia internasional, rumusan mengenai nelayan tradisional didalam *Memorandum of Understanding Box 1974* (MoU Box 1974) dan *Agreed Minutes 1989* menemukan persoalan dalam memenuhi hak penangkapan ikan secara tradisional (*traditional fishing rights*) dari nelayan tradisional Indonesia di wilayah ZEE Australia. Persoalan tersebut disebabkan oleh adanya perbedaan interpretasi antara Indonesia dan Australia terhadap pengertian nelayan tradisional didalam MoU Box 1974 dan *Agreed Minutes 1989*. Pengadopsian teknologi yang dilakukan nelayan tradisional Indonesia untuk menyesuaikan perkembangan internasional, dinilai pemerintah Australia sebagai pelanggaran terhadap ketentuan perjanjian. Penelitian ini menggunakan pendekatan Yuridis – Normatif dengan sifat deskriptif analitis. Adapun metode pengumpulan data yang digunakan didalam penelitian adalah kepustakaan / *library and website research* dengan jenis data sekunder. Hasil penelitian menunjukkan bahwa rumusan definisi mengenai nelayan tradisional dipengaruhi 3 (tiga) hal, yakni sistem hukum, metode interpretasi, dan pergeseran norma hukum internasional. Dalam konteks MoU Box 1974 dan *Agreed Minutes 1989*, Australia yang menitikberatkan kepada teknologi sebagai ciri dan karakteristik tradisional, bertentangan dengan interpretasi Indonesia. Hal tersebut berimplikasi kepada pelemahan perlindungan hukum di lapangan sehingga menyebabkan penangkapan terhadap nelayan tradisional dan stagnasi budaya yang terjadi dikalangan komunitas nelayan tradisional. Dengan demikian, sesungguhnya pengertian nelayan tradisional didalam MoU Box 1974 dan *Agreed Minutes 1989* harus dirundingkan dan diselaraskan ulang dengan pengakuan internasional terhadap masyarakat tradisional melalui kerangka UNCLOS 1982 dan instrument hukum internasional lainnya.

Kata Kunci : Interpretasi, MoU Box 1974, *Agreed Minutes 1989*, dan *Traditional Fishing Rights*

ABSTRACT

Along with international developments, the formula on traditional fishermen in the Memorandum of Understanding Box 1974 (MoU Box 1974) and Agreed Minutes 1989 finds issues in meeting the traditional fishing rights of traditional Indonesian fishers in Australia's ZEE territory. The issue is due to differences in interpretation between Indonesia and Australia of the traditional fishermen in the MoU Box 1974 and the Agreed Minutes 1989. The adoption of technology by traditional Indonesian fishermen in order to adapt to international developments, the Australian government judged as a violation of the terms of the treaty. This study uses a Yuridis-Normative approach with analytical descriptive properties. The method of data collection used in the research is library and website research with secondary data types. The results of the research show that the formula of the definition of traditional fishermen is affected by three (three) things, namely the legal system, the method of interpretation, and the shift in the norms of international law. In the context of the 1974 Box MoU and the 1989 Agreed Minutes, Australia's reference to technology as a traditional feature and characteristic contradicts Indonesian interpretation. This implies a weakening of legal protection in the field leading to the arrest of traditional fishermen and the cultural stagnation that occurs among traditional fishing communities. Thus, indeed, the concept of traditional fishermen in the 1974 MoU Box and Agreed Minutes 1989 must be negotiated and reconciled with international recognition of traditional communities through the 1982 UNCLOS framework and other international legal instruments.

Keywords : Interpretation, MoU Box 1974, Agreed Minutes 1989, and Traditional Fishing Rights