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# Maritime Law Enforcement and Delimitation of Indonesian Sea Boundaries: Legal Certainty and Protection of Sovereign Rights

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***Abstract***

***Introduction:*** *Maritime boundary delimitation and law enforcement in border areas are important issues for Indonesia as an archipelagic state. However, maritime delimitation and the enforcement of maritime law concern distinct legal questions and require separate but coordinated analyses.*

***Purposes of the Research:*** *This study examines the legal framework for maritime boundary delimitation under UNCLOS 1982 and analyzes the urgency and challenges of law enforcement in Indonesia's maritime border areas.*

***Methods of the Research:*** *This study employs normative legal research using statutory, case, conceptual, historical, and comparative approaches. Primary, secondary, and tertiary legal materials are analyzed qualitatively through legal interpretation and reasoning.*

***Findings of the Research:*** *The findings show that the delimitation of exclusive economic zones must refer to Article 74 of the 1982 UNCLOS, while dispute resolution is subject to the obligation of peaceful settlement as stipulated in Article 279. The case of fisheries violations in the North Natuna Sea shows the importance of law enforcement coordination, jurisdictional certainty, and cooperation between countries. Law enforcement needs to be adjusted to the legal status of the maritime zone and the authority of the applicable coastal states. It concludes that strengthening maritime law enforcement needs to be carried out through the resolution of incomplete delimitations, increased inter-agency coordination, and consistent implementation of UNCLOS 1982. This study emphasizes the relationship between maritime boundary certainty and law enforcement effectiveness as the basis for Indonesia's maritime policy formulation.*

***Keywords:*** ***Maritime Boundary Delimitation; Maritime Law Enforcement; UNCLOS 1982; Exclusive Economic Zone.***

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## INTRODUCTION

Indonesia is an archipelagic country, so it is naturally included in the group of countries that have abundant aquatic resources and very diverse biodiversity. This natural wealth includes fish and coral reef resources.[1] Indonesian waters, which include territorial seas, inland waters, archipelago waters, exclusive economic zones, and continental shelf, have very significant benefits and functions. These benefits include sea surface areas, water areas, as well as the seabed and soil layers below.[2]

The potential of Indonesia's natural resources in the vast sea area and also the Indonesian sea area which is directly adjacent to 10 neighboring countries opens up opportunities for violations of the law. Indonesia borders 10 countries in the sea, namely Malaysia, Singapore,

[1] Muhammad Insan Tarigan. "Implementation of Countermeasures Effort of Illegal Fishing in Indonesia (Case Study on Sinking the FV Viking Vessel)", *Journal of Indonesian Legal Studies* 3.01 (2018): 131-146. https://doi.org/10.15294/jils.v3i01.23213.
[2] Heryandi. *Hukum Laut Internasional Dalam Perkembangan*. (Bandar Lampung: BP *Justice Publisher*, 2014), p. 21.

Thailand, India, Vietnam, Philippines, Papua New Guinea, Palau, Timor Leste, Australia[3], Due to the large number of sea areas that border other countries, regulation of the width of the sea area is very important.

Indonesia ratified UNCLOS 1982 in 1985 with Law Number 17 of 1985 concerning the Ratification of the *United Nations Convention on the Law of the Sea* (UNCLOS 1982), which was then followed by the enactment of Law Number 6 of 1996 concerning Indonesian Waters. Thus, the Law has been repealed and what is now in force is Law Number 32 of 2014 as the legal umbrella on Indonesian maritime affairs, which was ratified on October 17, 2014, and included in the Statute Book of the Republic of Indonesia Number 294 of 2014, and the Supplement to the Statute Book of the Republic of Indonesia Number 5603.[4] Coastal States that carry out law enforcement and arrest of foreign vessels shall also immediately notify the flag State as stipulated in Article 73 paragraph (4) which reads: "*In the event of the arrest or detention of a foreign vessel, the coastal State shall immediately notify the flag State, through appropriate channels, of the action taken and of any penalties subsequently imposed* ".

In fact, there have been several cases of violations in Indonesia's Exclusive Economic Zone area, both at the border and outside the border by neighboring countries. For example, in 2020, the Indonesian Ministry of Foreign Affairs summoned the Chinese Ambassador in Jakarta regarding violations in Indonesia's Exclusive Economic Zone, including *Illegal, Unreported, and Unregulated Fishing* activities as well as violations by the Chinese *Coast Guard* in Natuna waters, it was not explained in detail how many Chinese vessels entered Natuna waters or whether the vessels were arrested. Meanwhile, former Secretary General of the Ministry of Maritime Affairs and Fisheries, Nilanto Perbowo, stated that a few hours earlier on Monday (30/12), a Vietnamese-flagged fishing vessel had been arrested[5].

Research on maritime security, fisheries violations, and maritime boundary dispute resolution has discussed various aspects of protecting Indonesia's interests in its waters. However, this article needs to place these issues in an analytical framework that distinguishes the certainty of delimitation, the determination of jurisdiction, and the authority of law enforcement based on maritime zones. Therefore, with this framework, the research is directed to explain how the uncertainty of delimitation can affect law enforcement in certain cases and formulate legal and institutional measures in accordance with UNCLOS 1982.

## METHODS OF THE RESEARCH

This study uses normative juridical methods to analyze the relationship between maritime boundary delimitation and law enforcement in Indonesia's border areas based on UNCLOS 1982. The legislative approach is used to examine the provisions of relevant national conventions and regulations, while the case approach is used to analyze maritime violation events selected based on the relevance of jurisdictional and law enforcement issues. The conceptual approach is used to distinguish sovereignty, sovereign rights, jurisdiction, delimitation, and law enforcement. Primary legal materials are examined alongside relevant secondary legal materials. The analysis is carried out qualitatively through the systematic interpretation of legal provisions, testing their application to the case

[3] https://www.detik.com/edu/detikpedia/d-6504804/lengkap-batas-batas-wilayah-negara-indonesia.

[4] Wiliawati, Yulia, Danial Danial, and Fatkhul Muin. "Eksistensi UNCLOS 1982 dalam Upaya Penegakan Hukum Laut Internasional di Perairan Negara Pantai". *Sultan Jurisprudence: Jurnal Riset Ilmu Hukum* 2, no. 2 (2022): 286-298.

[5] https://www.bbc.com/indonesia/indonesia-50925653.

studied, and the formulation of conclusions based on the suitability between norms, jurisdiction, and law enforcement actions.

## RESULTS AND DISCUSSION

### A. Regulation of Maritime Boundaries According to the 1982 Convention on the Law of the Sea

International law is very unique compared to other fields of law. This is because international law is based on the existence and sovereignty of a state which is the highest power. In other words, international law is based on the equality *of states*. International law of the sea is one of the branches of international law that has experienced significant scientific development in at least the last 50 years and will always develop dynamically from time to time. Before the International Law of the Sea Conference I (UNCLOS I) was held in 1958, the use of the sea was regulated by international customs.[6]

The importance of the sea in relations between nations also causes the importance of the meaning of international maritime law. The goal is to regulate the dual uses of the sea, namely as a highway and as a source of wealth as well as a source of energy. The sea can only be used by special vehicles, namely ships, the law of the sea must also determine the status of these ships. In addition, the law of the sea must also regulate competition between countries in seeking and using the wealth provided by the sea, especially between developed countries and developing countries[7]. The history of the growth of international law of the sea is marked by a battle between two conceptions of the law of the sea, namely[8]: 1) Res Communis, which states that the sea is the common property of the world community and therefore cannot be taken or owned by anyone; 2) Res Nulius, which states that the sea is owned by no one and therefore can be taken and owned by individual states. The seabed of the ocean (region). The Convention establishes this deep ocean bed by the term 'territory', which is defined as the seabed and the land beneath it which is within the boundaries of national jurisdiction. All rights to this source of natural wealth are reserved to humanity as a whole.

Based on the 1945 Constitution and related laws and regulations, it controls, manages and uses the land, sea and air territories and natural resources contained therein for the greatest possible prosperity of the people totaling 251 million people. The condition of the territory with clear boundaries between countries, the existence of a large number of people who live and work in the region, the presence of the government of a sovereign state, and the recognition of other countries and the international community, especially through the enactment of the 1982 Convention on the Law of the Sea or in English known in English as the 1982 *United Nations Convention on the Law of the Sea* (UNCLOS) which is internationally binding have strengthened the existence of the Unitary State of the Republic of Indonesia as the largest archipelagic country in the world.[9]

Indonesia is the *largest archipelagic state in the world, with approximately* 17,380 islands and 99,093 km of coastline (second longest after Canada) and 75% (5.8 million km2). The

[6] Bernaerts Arnd. *Bernaerts Guide to the United Nations Conventions on the Law of the Sea 1982*. (England: Fairplay Publications. 1988). p 4

[7] Boer Mauna. *Hukum Internasional: Pengertian, Peranan dan Fungsi dalam Era Dinamika Global*, (Bandung: Alumni, 2024), p. 307.

[8] Hasyim Djalal, *Perjuangan Indonesia di Bidang Hukum Laut*. (Jakarta: Penerbit Binacipta. 1979), p. 11.

[9] Purwaka, Tommy Hendra. "Tinjauan Hukum Laut Terhadap Wilayah Negara Kesatuan Republik Indonesia." *Mimbar Hukum* 26, no. 3 (2015): 355-365

territory is in the form of the sea including the Indonesian Exclusive Economic Zone, there are 10 countries that have sea borders with Indonesia, namely the maritime border of Indonesia with Malaysia, sea border with Thailand, sea border with Singapore, sea border with Vietnam, sea border with the Philippines, sea border with Palau, sea border with Papua New Guinea, sea border with Timor Leste, sea border with Australia, maritime border between Indonesia and India[10].

The maritime boundary lines between Indonesia and neighboring countries that have not yet been determined need to be resolved immediately through negotiations so that Indonesia's sovereignty and sovereign rights can be truly upheld in the maritime area under Indonesia's jurisdiction[11]. The settlement of Indonesia's maritime border area with neighboring countries is very important to maintain the country's sovereignty and integrity, as well as ensure the fair and sustainable use of natural resources, with a clear territorial boundary agreement, Indonesia can avoid potential conflicts and territorial disputes that can be detrimental both politically, economically, and socially.

Some countries that border their neighbors at sea may have problems with their neighbors. It is hoped that the border problem will not cause disputes that have an impact on conflicts, let alone to the point of becoming armed conflicts. Border problems that arise sometimes because the width of a country's sea area is reduced due to the withdrawal of the base line so that the maximum width of the territorial sea or exclusive economic zone as stipulated in UNCLOS 1982 can be reduced or overlap *(over lapping*).[12] Increasing the security and sovereignty of a country's territorial territory based on the maritime boundary that surrounds its land area. This explains why maritime security is an important issue for a country. Various forms of threats at sea that disrupt maritime security stability are very varied, namely: *illegal fishing, transhipment, drug smuggling, human trafficking, piracy and terrorism.*[13] Broadly speaking, dispute resolution methods can be classified into two categories, namely:[14] 1) Peaceful settlement methods, i.e. when the parties have been able to agree to find a friendly solution; 2) Methods of resolving disputes by force or by force, i.e., if the solution is used or imposed through violence or war.

J. G. Starke, an expert on international law, argues that methods of peaceful and amicable international dispute resolution can be divided into the following classifications:[15] 1) Arbitration; 2) Judicial settlement; 3) Negotiation, good offices, mediation, conciliation. and inquiry; 4) Settlement under the auspices of the United Nations (UN) organization. Huala Adolf argued that the method or method of peaceful settlement of international disputes through diplomatic international dispute resolution and international dispute resolution through judicial institutions, arbitration and other international organizations, including[16]: 1) Negotiation; 2) Fact-finding; 3) Good Services; 4) Mediation; 5) Conciliation; 6) Arbitration; 7) International Court of Justice.

Furthermore, the legal settlement of disputes. Settlement of international disputes through public international arbitration institutions. Arbitration is the voluntary

[10] Simanjuntak, Mangisi. "Penyelesaian Sengketa Batas Laut Antara Indonesia Dengan Negara-Negara Tetangga Ditinjau Dari Konvensi PBB Tahun 1982 Tentang Hukum Laut (UNCLOS 1982), p. 178

[11] *Ibid,* p. 362

[12] Simanjuntak, Mangisi. *Op Cit*, p. 179.

[13] Sugianto, Anthoni, Dafri Agussalim, and Armaidy Armawi. "Penanganan Keamanan Maritim Perbatasan Wilayah Laut Dan Dampaknya Pada Aspek Pertahanan Keamanan." *Jurnal Lemhannas* RI 9, no. 2 (2021): 113-126.

[14] *Ibid*

[15] Bambang Iriana Jayaatmaja. *Pengantar Hukum Internasional*, (Jakarta: Sinar Grafika, 1992), p. 486.

[16] Huala Adolf, *Hukum Penyelesaian Sengketa Internasional* (Jakarta: Sinar Grafika, 2004). p. 19-24.

submission of disputes to neutral third parties and the award issued is final and binding. Today's arbitration bodies are increasingly popular and increasingly used in resolving international disputes. The submission of a dispute to arbitration can be done by making a compromise or agreement, which is the submission to arbitration of a dispute that has been born; or through the creation of an arbitration clause in an agreement before the dispute is born (*clause compromisesoire*). The person chosen to conduct the arbitration is called an arbitrator or arbitrator.[17]

**B. The Urgency of Law Enforcement in Indonesia's Sea Border Areas**

Since ancient times, the sea has had an important role in human life, starting from the explorations carried out as well as unilateral claims by countries that claim the sea and have a significant impact on the history of the development of maritime law. From the beginning, the problem regarding the law of the sea was whether the sea itself could be owned by a country or not. The sea has great benefits and roles for human life which is also part of the environment.[18]

Indonesia has sovereignty over 3.2 km2 of waters, consisting of 2.9 million km2 of archipelagic waters and 0.3 million km2 of territorial seas. In addition, our sea area has extraordinary natural resource potential that has not been optimally managed until now. We also have sovereign rights over these marine natural resources and various related interests in the waters of the Exclusive Economic Zone covering an area of 2.7 million km2.[19] Theft of marine resources in the form of fish is mostly carried out by foreign fishermen. Fishing without a permit is mostly carried out in Indonesian sea waters with complete equipment, generally they use tiger trawlers. The modus operandi varies, among others, by employing local fishermen or using foreign vessels with Red and White flags (Flag of the Republic of Indonesia), but they do not have a permit to catch fish in the waters of Indonesian seas. This kind of fish theft is quite detrimental to the country.[20]

Data shows that illegal fishing in Indonesia's maritime areas continues to increase, with the total losses experienced by Indonesia around US$ 2 billion or around IDR 18 trillion per year. Smuggling activities cause Indonesia to suffer losses of around US$ 1 billion or around IDR 2 trillion every year. Illegal *logging activities*, which are usually smuggled through the sea, require systematic efforts by the nation and government to save Indonesian waters, as well as improve the ability of resources to utilize Indonesian waters.[21] For example, in 2020, the Indonesian Ministry of Foreign Affairs summoned the Chinese Ambassador in Jakarta regarding violations in Indonesia's Exclusive Economic Zone, including *Illegal, Unreported, and Unregulated Fishing* activities as well as violations by the Chinese *Coast Guard* in Natuna waters. Meanwhile, former Secretary General of the Ministry of Maritime Affairs and Fisheries, Nilanto Perbowo, stated that a few hours earlier on Monday, December 30, 2020, a Vietnamese-flagged fishing vessel had been arrested.[22]

In addition, in 2021 the Ministry of Maritime Affairs and Fisheries secured two illegal foreign fishing vessels flagged Vietnam. Both ships were secured while stealing fish in the

[17] *Ibid*

[18] Dikdik Mohammad Sodik. *Hukum Laut Internasional dan Pengaturannya di Indonesia*. (Bandung: Refika Aditama. 2016), p. 1.

[19] Etty R. Agoes, (Penyunting) Dimanahkah Batas-Batas Wilayah Kita Di Laut ?, Departemen Kelautan dan Perikanan, Jakarta, 13 Desember 2000, p. 1.

[20] Gerungan, Lusy KFR. "Penegakan Hukum Di Wilayah Perairan Indonesia." *Lex et Societatis* 4, no. 5 (2016), p. 9.

[21] *Ibid,* p. 6.

[22] https://www.bbc.com/indonesia/indonesia- Kapal ikan asing masuk Natuna: Indonesia protes keras ke Beijing dan kapal Vietnam baru saja ditangkap-50925653.

State Fisheries Management Area of the Republic of Indonesia 711 North Natuna Sea. The Ministry of Maritime Affairs and Fisheries, said that the North Natuna Sea and the Malacca Strait are areas prone to fish theft. The foreign vessel, which was secured on March 29 by the Orca 03 Fisheries Surveillance Ship, uses pair trawl fishing equipment. The vessel, with hull numbers KG 9307 TS and KNF 7727, is now at the Batam City Marine Resources and Fisheries Supervision Base along with 21 crew members from Vietnam. During the arrest, the Fisheries Surveillance Vessel commanded by Captain Mohammad Ma'ruf secured a number of evidence, including boats, fishing gear, navigation equipment, communication equipment and fish caught.[23]

Indonesia's maritime border area is indeed prone to fish theft. As an archipelagic country with a very long coastline, Indonesia has great potential for marine resources, but this also opens up loopholes for illegal activities such as *Illegal, Unreported, and Unregulated fishing*. The waters around the border are often poorly monitored, both due to limited monitoring facilities and infrastructure, and due to the high international market demand for fish and other marine products. In addition, political tensions or overlapping maritime claims between countries also exacerbate the situation, making the region more vulnerable to fish theft practices by foreign vessels. These activities not only harm the country's economy, but also threaten the sustainability of marine ecosystems that are highly dependent on the balance of natural resources, to safeguard the maritime border area with neighboring countries, Indonesia needs to develop comprehensive and sustainable policies. One of the key steps is to strengthen surveillance and patrol systems in border waters, by modernizing the patrol boat fleet and improving technological capabilities such as radar and satellites to detect illegal activities. In addition, Indonesia should strengthen diplomatic cooperation with neighboring countries to resolve border disputes peacefully and in accordance with international law, such as the United Nations Convention on the Law of the Sea (UNCLOS).

Indonesia is the largest country in Southeast Asia. In addition, Indonesia is also the largest archipelagic country in the world with a very large maritime area. Its coastline is about 81,000 km. Indonesia has more than 17,000 islands and its sea area covers 5.8 million km² or about 70% of Indonesia's total area. Indonesia's sea area consists of 3.1 million km² of sovereign sea area and 2.7 million km² of Indonesia's Exclusive Economic Zone (EEZ). From this data, it can be calculated that Indonesia's sea area is 64.97% of Indonesia's total area.[24] The border line with these 10 neighboring countries on the one hand can be a potential for cooperation between countries, but on the other hand it can be a threat to the sovereignty and security of the country itself is disturbed[25]. One form of potential that can turn into an existential threat is that there are still a number of border segments that have not been discussed and agreed upon with neighboring countries. These threats can be in the form of aggression, territorial violations, armed insurgency, sabotage, espionage, armed terror acts, maritime and air security threats, and communal conflicts[26]. In general, the handling of issues and problems at sea is carried out through 7 activities[27]: 1) Early *warning*

[23] https://www.mongabay.co.id/2021/04/06/amankan-2-kapal-vietnam-kkp-laut-natuna-utara-dan-selat-malaka-rawan-pencurian-ikan/.

[24] Ali, Ichsanul Mutaqin, and Dohar Sianturi. "Strategi Pertahanan Laut dalam Menghadapi Ancaman Keamanan maritim di Wilayah Laut Indonesia." *Jurnal Education and Development* 10, no. 2 (2022): 372-379.

[25] Tirtamulia, Tjondro. *Zona-Zona laut UNCLOS*. (Bandung: Brilian Internasional, 2011): 17- 23

[26] Agoes, Etty R. Konsepsi "Economic Zone" Di Dalam Hukum Laut Internasional. Padjadjaran No. 4/1976 and N0. 1/1977, p. 89-100

[27] http://www.adobe.com/go/reader9_create_pdf.Departe men Kelautan dan Perikanan. Sekretariat Jenderal Satuan Kerja Dewan Kelautan Indonesia Tahun Anggaran 2008. Analisa Kebijakan Pembentukan Badan Penegakkan Hukum Keamanan Dan Keselamatan Laut.

*information system services*; 2) Law enforcement at sea; 3) Customs; 4) Aids *of navigation and security*; 5) Control of marine resources and environment; 6) Search and rescue at sea; and 7) National *Defence*.

In resolving a dispute experienced by a country, there are efforts that can be taken to resolve it, including[28]: 1) Efforts to resolve it through litigation; In this settlement effort, it is carried out in court by directly confronting both parties to the dispute, each of which has the opportunity to file a lawsuit and rebuttal; 2) Non-litigation efforts; Non-litigation efforts are an effort to resolve which is often also called alternative dispute resolution.

The resolution of border violations in the form of *illegal fishing* can be done through non-litigation channels with an approach that prioritizes diplomacy and cooperation between countries that share maritime borders. This approach involves dialogue and negotiations between the countries involved to find solutions that not only address the violations, but also prevent the recurrence of similar actions in the future. In addition, mediation or facilitation mechanisms by neutral third parties can also be an effective solution to reach an agreement. This settlement is done in a way that prioritizes a peaceful settlement, through negotiations to reach an agreement on territorial boundaries or other concrete actions that reduce tensions.

This can be seen in one example of an effort to resolve a peaceful dispute between Indonesia that resolved the dispute over *the Illegal fishing* case with China. However, through this diplomacy, it was carried out through the provision of a memorandum of protest from Indonesia against China and summoning the Chinese Ambassador. This memorandum of protest was issued by Indonesia because China had resisted and even claimed the Natuna sea waters as the Chinese sea area based on the *Nine Dash Line*, which is a territorial map that affixes nine dotted lines as markers or imaginary dividing boundaries used for the Chinese government in claiming most of the Natuna Sea area. The diplomacy aims to negotiate maritime boundaries and protect the interests of marine resources from *Illegal, Unreported, and Unregulated Fishing*, especially between Indonesia and China.[29]

Guarding Indonesia's maritime border area is very important to prevent violations of laws and border disputes that can harm the country. A clear and well-guarded sea border not only protects the country's sovereignty, but also ensures the preservation of natural resources in the region, such as fish, oil, and gas, which are strategic assets for the national economy. In addition, guarding the sea border also serves to prevent illegal practices such as *illegal fishing*, smuggling, and piracy, which can damage the environment and the economy of coastal communities.

Therefore, with strict supervision and clear arrangements between bordering countries, the potential for maritime disputes can be minimized. Therefore, it is important for Indonesia to strengthen maritime diplomacy, increase cooperation with neighboring countries, and renew and strengthen international agreements that regulate maritime boundaries, in order to create stability and peace in the border area. This will provide a sense of security, not only for Indonesia, but also for surrounding countries that have similar interests in maintaining the security and sustainability of marine resources.

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[28] Adolf, Huala, *Op.Cit.*

[29] Ela Riska, "Diplomasi Maritim Indonesia terhadap Aktivitas Penangkapan Ikan Ilegal (Ilegal Fishing) oleh Nelayan China di ZEEI Perairan Kepulauan Natuna", *Jurnal Prodi Diplomasi Pertahanan* 3, no. 2 (2017).

## CONCLUSION

This study confirms that maritime boundary delimitation and law enforcement in Indonesia's border areas are two interrelated issues, but have different legal bases and consequences. UNCLOS 1982 regulates the delimitation of the EEZ in Article 74, the delimitation of the continental shelf in Article 83, and the obligation to resolve disputes peacefully in Article 279. Therefore, the application of the law to maritime violations must be based on the status of the maritime zone, the authority of coastal states, and the norms that specifically apply. The analysis of fisheries cases around the North Natuna Sea shows the importance of assessing each incident based on the location, character of the violation, and the basis of enforcement authority, rather than simply categorizing it as a violation of sovereignty. The effectiveness of law enforcement requires inter-agency coordination, integrated maritime supervision, and cooperation with neighboring countries. Therefore, the strengthening of Indonesia's maritime law policy needs to be directed towards resolving incomplete delimitations, increasing jurisdictional certainty, aligning law enforcement authority, and implementing UNCLOS 1982 consistently. These recommendations should be adjusted to the concrete findings and limitations of the legal materials analyzed in the research. The final manuscript should ensure that each statement in the conclusion has been proven in the discussion. If the case analysis is not sufficient to conclude that there is a coordination problem or jurisdictional uncertainty, the claim should be limited or supported by additional evidence.

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