

22/11/1998

Four foreign law experts engaged to fight our case

MALAYSIA has engaged four foreign international law experts to fight at the International Court of Justice in The Hague, The Netherlands, its almost three-decade-old dispute with Indonesia over the islands of Sipadan and Ligitan.

Both countries had, after intense wrangling over the course of 29 years, brought their dispute to the Court on Nov 2 - signifying the beginning of formal legal proceedings.

Formed in 1946, the Court is the judicial arm of the United Nations.

Foreign Ministry territorial and maritime issues under-secretary Noor Farida Ariffin said the country's high-powered team, which she described as "renowned jurists with international repute", would be headed by the Attorney-General.

"This will ensure we have the best representation possible to put forward our case to the Court," she told the New Straits Times.

The AG representing the country will be the one in office when the oral proceedings commence about two years from now, upon the conclusion of written pleadings.

Judgment itself is expected in two-and-a-half-years.

Noor Farida said Malaysia's counsel were from the United Kingdom and the United States. She, however, declined to reveal their names.

"Malaysia and Indonesia have also agreed to engage one judge each from their respective countries to sit ad hoc with the Court's 15 judges. However, the two judges have yet to be selected."

When the Court does not include a judge possessing the nationality of a State party to a case, that State may appoint a person to sit as a judge ad hoc for the purpose of the case.

Besides counsel, each country is also represented by agents who will address the Court.

Foreign Ministry Secretary-General Datuk Abdul Kadir Mohamad will be Malaysia's agent during the proceedings. His co-agent is the Malaysian ambassador to Indonesia.

Pulau Sipadan, which has been called an underwater paradise by divers, is a tourist attraction. Its lesser known neighbour, Ligitan, is located on the same latitude.

Malaysia and Indonesia will be filing a series of written pleadings over the next two years, after which oral proceedings will commence.

The oral phase will last two weeks, after which the Court will deliberate in camera and will deliver its judgment at a public sitting.

Noor Farida is confident that a decision will be reached between six and eight weeks upon the conclusion of oral proceedings.

"Cases argued before the Court last an average of two-and-a-half years from the start of proceedings to the delivery of final judgment. As everything is proceeding smoothly, we expect judgment within the average duration."

She said both countries were basing their arguments on historical documents dating back to colonial times.

"There are hundreds and hundreds of maps and treaties," Noor Farida said.

Among others, Malaysia has a 1916 document in the Sabah State archives confirming turtle egg collection rights for local families under the British North Borneo Government and signed by a British colonial official.

An exchange of documents between the British authorities and the United States Government demarcating territory in the Sulu Sea when the latter occupied the Philippines is another basis to argue Malaysia's case.

Indonesia's claim is based on, among others, a 1891 Anglo-Dutch boundary agreement which states:

"The boundary between The Netherlands' possessions in Borneo and those of British protected States on the same island shall start from 4 degrees 10' north latitude on the east coast of Borneo."

Another territorial dispute which will be brought to the Court soon is Singapore's claim over Pulau Batu Putih, situated 15km off Johor.

The claim surfaced in 1989 when Singapore stopped Malaysian fishermen from approaching the island.

Both countries agreed to refer the issue to the Court in September 1994 after a meeting between Prime Minister Datuk Seri Dr Mahathir Mohamad and his Singaporean counterpart Goh Chok Tong.

Documents detailing the contentious matters are ready. However, the dispute is yet to be registered at the Court.

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