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Manila pleads case in UN court

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THE request by the Philippines to intervene in the dispute of sovereignty over Pulau Sipadan and Ligitan in Sabah between Malaysia and Indonesia commenced before the International Court of Justice yesterday with oral pleadings by the Philippines.

It is being heard before 15 international judges led by court president Gilbert Guillaume of France.

They include Sri Lankan Christopher Weeramantry and American Thomas Franck who represent Malaysia and Indonesia respectively as ad hoc judges.

Manila is represented at the four-day hearing by its Ambassador to the Netherlands Eloy R. Bello III (acting as agent), Foreign Affairs under-secretary Merlin M. Magallona (acting as co-agent and counsellor) and Professor W. Michael Reisman from Yale Law School (acting as counsel and advocate).

In his application for permission to intervene dated March 13 this year, Bello stressed that his country's present application for permission to intervene was independent from earlier submissions made by Manila.

The Government of the Philippines only wished to present and demonstrate its legal rights and interests to the court, and as appropriate, to state its views as to how the determination of sovereignty over Pulau Sipadan and Ligitan may or may not affect those legal rights and interests.

The interests of the Philippines are solely and exclusively addressed to the treaties, agreements and other evidence furnished by parties and appreciated by the court, which have a direct or indirect bearing on the matter of the legal status of North Borneo.

The three-prong objective of the application is aimed at:

- * Preserving and safeguarding the historical and legal rights of the Philippines Government arising from its claim to dominion and sovereignty over North Borneo, to the extent that these rights are affected, or may be affected, by a determination of the court of the question of sovereignty over Pulau Sipadan and Ligitan.

- * To intervene in the proceedings in order to inform the court of the nature and extent of the historical and legal rights of the Philippines, which may be affected by the court decision.

- * To appreciate more fully the indispensable role of the court in comprehensive conflict prevention and not merely for the resolution of legal disputes.

The ICJ is not expected to reach a decision on the matter until September.

Pulau Sipadan is a tourist attraction dubbed as an underwater paradise by international divers while Ligitan, which is located on the same attitude, is lesser known.

It is generally accepted that the true motive of Manila's action was to stake its claim on Sabah - a long-standing issue first sparked in 1962 under President Macapagal and resurrected by the current administration of his daughter Gloria Macapagal Arroyo.

The territorial dispute between Malaysia and Indonesia over Pulau Sipadan and Ligitan is ranked seventh among 23 cases that are currently pending at the ICJ.

Prime Minister Datuk Seri Dr Mahathir Mohamad and his then Indonesian counterpart President Suharto had agreed to refer both countries' dispute over the two islands to the ICJ for arbitration in 1997.

After registering their case in July 1998 and having submitted three sets of written documents to the ICJ last March, the two parties were all geared up for a hearing. Then Manila dropped the bombshell, invoking Article 62 of the ICJ Statute to intervene in the proceedings.

Malaysia and Indonesia will submit their oral pleadings tomorrow.

Malaysia's 11-member delegation is led by the Foreign Ministry's secretary-general Tan Sri Abdul Kadir Mohamad (acting as agent) and the country's ambassador to the Netherlands Noor Farida Ariffin (acting as co-agent).

The two are assisted by a team of international counsel and advocates comprising the University of Cambridge's international law professors Sir Elihu Lauterpacht and James Crawford, Universite de Paris I emeritus professor Jean-Pierre Cot, Amsterdam's Free University's international law professor Nico Schrijver and Malaysia's solicitor-general Datuk Heliliah Yusof.

The others are advisers consisting of the Foreign Ministry's Territorial and Maritime Affairs Division under-secretary Hussin Nayan, Sabah acting State Attorney-General Halima Nawab Khan, the Prime Minister's Department National Security Division deputy director-general Muhamad Mustafa and Sabah State Attorney-General Chambers legal officer Athman Hassan.

A judicial organ of the United Nations which replaced the Permanent Court of International Justice in 1946, the ICJ plays a dual role of settling in accordance with international law the legal disputes submitted to it by States and giving advisory opinions on legal questions referred to it by duly authorised international organs and agencies.