

# We inherited Sipadan, Ligitan, says Indonesia

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INDONESIA opened its case at the International Court of Justice yesterday to stake its claim to Sipadan and Ligitan, by asserting a historical inheritance of the islands from their colonial ruler, the Netherlands.

It asserted that the Dutch had agreed on a decisive boundary of its territories with the British in the Anglo-Dutch Convention 1891, and claimed the boundary line had put the two islands under Dutch rule, and hence under Indonesia.

It said the convention had an overriding legal effect on both Indonesia and Malaysia which had inherited their territories from the Netherlands and Britain respectively.

Indonesia also asked the court to disregard economic activities on Sipadan, namely a tourist resort by a Malaysian company, as being irrelevant as they were built after the territorial dispute had arisen in 1969.

It said such activities were only to establish a claim over the territory, and added that Jakarta had lodged a protest over it.

Representing Indonesia, Queen's Counsel Sir Arthur Watts submitted that the two colonial rulers had intended for the 1891 convention to fix the boundaries because they had run into numerous disputes over their territories.

The ICJ hearing, which is set for two weeks, is the result of years of failed negotiations between Indonesia and Malaysia

since Indonesia made its first claim on the islands in 1969 when the two countries were drawing up their maritime boundaries.

At that time, they agreed to settle the issue of sovereignty over Sipadan and Ligitan at a later stage.

However, four years of high-level negotiations from 1992 failed to reach a conclusion.

In 1996, Prime Minister Datuk Seri Dr Mahathir Mohamad and the then Indonesian President Suharto agreed to refer it to the ICJ. A Special Agreement was signed and registered with the court in 1998.

Bringing the issue to the ICJ is of special note because it's the first time Malaysia has done so and it may set a precedent for future territorial dispute resolution, including the claim by Singapore over Pulau Batu Putih.

In his submission, Watts said the 1891 convention had set a boundary line extending eastwards from Borneo at the 4 degrees 10' North latitude line.

Territories north of the line belonged to the British, and to the south, the Dutch, he said.

He claimed that since Sipadan lay well south of the line, and Ligitan just south of it, they had belonged to the Dutch and added that maps issued had recognised this until 1979.

Indonesia also dismissed the need to look into history prior to 1891, when the territories were under the Malay Sultanates.

In general, the Sultan of Sulu's possessions later came under the British and the Sultan of Bulongan's under the Dutch.

Another counsel of Indonesia,

Alain Pellet, a professor at the University of Paris X-Nanterre, said Malaysia's case hinged on the ownership of the islands by the Sultan of Sulu, as it claimed the Sultan had ceded them to a trading company which later gave them to the British.

He said there was no clear proof of ownership by the Sultan of Sulu, or even by the Sultan of Bulongan, but this was not important as the 1891 convention had resolved the problem.

In his opening remarks, Indonesia's agent Dr N. Hassan Wirajuda, said Indonesia took this issue seriously, particularly because it was a country comprising exclusively of islands — 17,000 of them.

He also said Indonesia was concerned about the issue of "status quo" or a standstill agreement reached in 1969, be-

cause Malaysia had taken steps involving the islands beginning in 1979 when it issued maps showing them as Malaysia and later, by building tourist resorts.

However, he added that Indonesia continued to have excellent relations with Malaysia and it was encouraging that the two nations had shown their confidence in ICJ as a fair arbiter of disputes, reflecting a growing maturity in the relations among countries in the region.

The case is being heard by the 15 ICJ judges and another two ad-hoc judges nominated by Indonesia and Malaysia.

Indonesia continues its submissions tomorrow.

Meanwhile, ICJ president Gilbert Guillaume said both parties had agreed that Indonesia would be heard first but it did not mean it was the applicant state.