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KL closes case for sovereignty

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MALAYSIA yesterday closed its case for sovereignty over Sipadan and Ligitan, by asking the International Court of Justice to confirm its long and uninterrupted possession of the islands since 1878.

Acting as agent, Ambassador-at-Large Tan Sri Abdul Kadir Mohamad asked the court to uphold the principles of stability and continuity in territorial administration, as it has always done.

He said while Indonesia's Foreign Minister Dr N. Hassan Wirajuda had pledged to respect private rights over the islands as acquired under Indonesian law, its laws had never applied there in the first place.

That is precisely the point: no rights have ever been acquired over the islands under Indonesian law, which has never mentioned the islands and has never been applied here.

The rights which people have over the islands have been acquired under Malaysian law, not Indonesian law, he said in his closing remarks at the hearing to decide on Indonesia's claim to the islands.

Abdul Kadir said Malaysia looked forward to the court's decision which will provide a peaceful and friendly settlement.

It was a matter of pride to Malaysia that the International Court of Justice had an important role to play in the settlement. He said this would contribute to peace and stability in Southeast Asia.

Abdul Kadir said if a State could, 80 years after a boundary treaty was concluded, claim territory in the peaceful possession of another State with an unprecedented interpretation of the treaty, then "I fear that this case will be a source of serious stability."

He said the implications would be far beyond the two small islands of Sipadan and Ligitan.

(He was referring to the Anglo-Dutch Convention 1891 which is the basis of Indonesia's claim.)

In summarising Malaysia's case, he said it has a good title over the islands while Indonesia had none. The islands had been actually administered by Malaysia and its predecessors in title, while Indonesia could not show the same.

Finally, Indonesia's interpretation of the 1891 convention had no foundation in law or fact.

As for Indonesia's alternative claim that its title was derived from the Sultan of Bulungan whose possessions had passed to the Dutch, Abdul Kadir said there was no evidence that the Sultan ever had authority over the islands.

Meanwhile, on Indonesia's accusations that Malaysia had repeatedly breached a purported standstill agreement of 1969, Abdul Kadir said the exchange of letters was not a standstill agreement and did not refer to the islands.

As for Prof Mochtar Kusumaatmadja's affidavit on this subject made 30 years after the 1969 negotiations between Malaysia and Indonesia, he said the assertions were Mochtar's own recollections. There is no record to confirm it and they do not coincide with Malaysia's stand.

Mochtar, who was Foreign Minister in 1969, had represented Indonesia in negotiations with Malaysia to draw up the maritime boundaries between the two countries.

There was no agreement that Malaysia would not maintain and extend its authority over the islands, and Indonesia's claims in that regard are

entirely without foundation, Abdul Kadir said.

With these closing remarks, the case came to a close yesterday after a hearing which had begun on June 3. The court is expected to deliver a decision at the earliest, in September.

Malaysia and Indonesia have both agreed to accept the decision as final and binding upon them.

The dispute had arisen in 1969 when Indonesia claimed the islands during the boundary discussions. Four years of bilateral discussion from 1992 to 1996 failed to reach a resolution.

In 1996, Prime Minister Datuk Seri Dr Mahathir Mohamad and the then Indonesian President Suharto agreed to refer the case to the ICJ. A Special Agreement was signed by both parties and lodged in the court in 1998.

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