

28 JAN 2003

S'pore-Batu Puteh (Special Report)

BATU PUTEH AWAITS VERDICT ON SOVEREIGNTY

By: Salbiah Said

SINGAPORE, Jan 28 (Bernama) -- It is tiny, rocky and virtually uninhabited. But Pulau Batu Puteh, located in Malaysia's territory, is at the centre of a territorial dispute between two neighbours who went separate ways in 1965.

Malaysia and Singapore, which is staking a claim on the small outcrop on their maritime border, are due to sign a pact in Putrajaya on Feb 6 to refer the sovereignty issue to the International Court of Justice (ICJ) in The Hague.

Pulau Batu Puteh, which Singapore calls Pedra Branca, is located just 7.7 nautical miles from Tanjung Penyusop in Johor and 25 nautical miles from Singapore's east coast.

Singapore says it has exercised sovereign rights on the island since the 1840s when the British colonial government occupied it and constructed a lighthouse. Malaysia maintains it has had sovereignty over the territory since the early 16th century.

The two sides have had a testy relationship since Singapore was expelled from the Malaysian Federation and gained independence in 1965.

Both countries say they are willing to accept the ruling of the ICJ. But Singapore continues to chase Malaysian ships away from the island, ignoring demands that it cease activities until the verdict.

By a tragic coincidence, as the war of words was heating up, a Singapore navy ship, RSS Courageous, patrolling the straits around Pulau Batu Puteh on the night of Jan 3, was rammed by a merchant ship, ANL Indonesia, killing four servicewomen.

Then on Jan 20, Defence Minister Tony Tan Keng Yam accused Malaysian vessels of intruding repeatedly into its waters. "There were three violations by Malaysian state vessels over the last week of December. There were five more violations last week."

"In these incidents, the Malaysian vessels came close to Pedra Branca and conducted various activities," he said, pledging that Singapore's navy would defend the country's sovereignty.

"Sir, Pedra Branca is Singapore's territory," Tan said in a parliamentary session.

On Jan 23, the minister warned Kuala Lumpur that it would have to bear responsibility for any "tense situations" that arose and the increased risk of "unintended incidents".

Malaysian leaders objected to Tan's statement.

Last Sunday, Prime Minister Datuk Seri Dr Mahathir Mohamad said that Malaysia does not recognise Singapore's authority in waters off Pulau Batu Puteh and will continue to patrol the area. He said that as far as Malaysia is concerned, the ownership of the island is still being disputed.

Earlier, both Deputy Prime Minister Datuk Seri Abdullah Ahmad Badawi and Defence Minister Datuk Najib Tun Razak told Singapore to stop using threatening language and vowed that its naval ships would continue patrolling the surrounding waters despite objections.

Abdullah said: "This is not the time to make such statements, statements in the form of threat or intimidation."

Najib said that Tan's statement was "provocative", but stressed that Malaysia's approach to the dispute was non-aggressive. "We have a right to continue the patrols and these patrols conducted by Malaysia are not something new but have been going on since 1964."

"The patrols that we have conducted and will conduct are non-aggressive in that, for example, we don't show our cannons, missiles or radar," Najib said.

Since then, Singapore has not budged from its position.

On Jan 25, Singapore's Foreign Affairs Minister S. Jayakumar repeated its warning to Kuala Lumpur to stop its intrusions into Singapore territorial waters off the disputed island.

"Such provocative actions are not only senseless but dangerous. Senseless because both sides have agreed to refer the dispute to the ICJ and such actions cannot affect the decision of ICJ.

"Dangerous because of the risk of accidents that may not only cause loss of life but also cause serious damage to naval vessels with unforeseeable consequences," he said in parliament.

The Malaysian government would have to bear responsibility for the consequences caused by the aggressive and repeated intrusions of its vessels, he warned.

Singapore, he reiterated, had exercised exclusive control, ownership and sovereignty of Pedra Branca since the 1840s without any protest from any country until Malaysia published a map in 1979 claiming it as part of its territory.

Can history prove the rightful, sovereign owner of this tiny island called Pulau Batu Puteh or Pedra Branca?

The director-general of the Maritime Institute of Malaysia, Dr B.A. Hamzah, said that the present Johore sultanate (now Malaysia) had exercised complete jurisdiction and sovereignty over Pulau Batu Puteh since 1513.

The old Johore-Riau-Lingga sultanate was founded around 1513 by Sultan Mahmood who abandoned Melaka to the Portuguese in 1511, said Dr Hamzah in an article on 'The Spratlys: What Can Be Done To Enhance Confidence' published by the Institute of Strategic Studies Malaysia (ISIS) in 1990.

In 1824, under the Anglo-Dutch treaty drawn up to put an end to the continuing rivalry between Britain and Holland over the Johore empire, a line was drawn dividing the respective spheres of influence on either side of the Straits of Melaka and south of Singapore, he said.

"This boundary line places Pulau Batu Puteh within the British sphere of influence and well within the territory of the present Johore empire as it has legally succeeded to the rights of the former empire," he noted.

"For Singapore to claim ownership of Pulau Batu Puteh, the city state must prove that Pulau Batu Puteh was ceded to Britain at the relevant time in history and that Singapore has rights to succeed to the British rights," he said.

Dr Hamzah said that there was no documentary evidence to suggest that the island of Pulau Batu Puteh was ceded to Britain by the Sultan of Johore in 1918, 1927 or at any other time in history.

"The British could only transfer to Singapore those rights that they actually possessed. The British must have obtained permission from some authorities in the Johore Sultanate (which was politically in a state of flux at that time) to erect a lighthouse on Pulau Batu Puteh."

The lighthouse, he noted, was officially opened in 1851 and the British had occupied the island and administered the lighthouse since. The other lighthouse which was administered by Britain in Malaysian territory is on leased territory on Pulau Pisang off Kukup in the Straits of Melaka.

"There seems to be no doubt the arrangement between Johore and the British authorities was simply for Britain to erect and maintain the lighthouses but it was never the intention of the Johore Sultanate to cede or give away the territories to Britain."

"There appears to be a tendency to confuse administrative jurisdiction with sovereignty. For all practical purposes, Pulau Pisang and Pulau Batu

Puteh belong to Malaysia unless proven otherwise," said Dr Hamzah.

Meanwhile, both Malaysia and Singapore have finally committed to signing the Special Agreement to begin the process of bringing the dispute to the ICJ.

Wisma Putra has been working on this for more than a decade. The first bilateral negotiations were held in 1993, and the second in 1994. Both talks broke down. In 1995 and 1996, negotiations were held on the referral of the case to the ICJ.

In April 1998, the text of the Special Agreement was agreed upon. However, the Sipadan/Ligitan case came up first, and Pulau Batu Puteh went on the backburner.

Once the Special Agreement is signed on Feb 6 in Putrajaya, and submitted to the ICJ, the case could be heard in three years.

-- BERNAMA

SS RM