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Mahathir-Arbitration (With pix)

SUGGESTION MALAYSIA'S MOVE LACKS MERIT RIDICULOUS, SAYS DR MAHATHIR

PUTRAJAYA, Oct 9 (Bernama) -- Malaysia today reacted strongly to Singapore's statement that the country had taken the republic to international adjudication for provisional measures over its reclamation works in the Straits of Johor on grounds which lacked merit.

The statement issued by its Ministry of Foreign Affairs (MFA) also said that the republic will continue with its preparation to argue the merits of Malaysia's claims before the Arbitral Tribunal in order to convince the Tribunal to find in favour of Singapore and reject Malaysia's claims.

Prime Minister Datuk Seri Dr Mahathir Mohamad said that the suggestion was ridiculous.

"Until you take the case to arbitration, you wouldn't know if you are right or wrong," Dr Mahathir, who is scheduled to step down at the end of the month, told reporters after attending his last meeting with Menteri Besar and Chief Ministers at the Prime Minister's Office here.

The Prime Minister was asked to comment on the MFA statement today quoting its spokesman as saying that Malaysia had decided to take Singapore to the International Tribunal for the Law of the Sea (Itlos) for provisional measures on grounds which clearly lacked merit.

The provisional measures requested by Malaysia were:

-- that Singapore shall, pending the decision of the Arbitral Tribunal, suspend all current land reclamation activities in the vicinity of the maritime boundary between the two States or of areas claimed as territorial waters by Malaysia (and specifically around Pulau Tekong and Tuas);

-- to the extent Singapore has not already done so, provide Malaysia with full information as to the current and projected works, including in particular their proposed extent, their method of construction, the origin and kind of materials used, and designs for coastal protection and remediation (if any);

-- afford Malaysia a full opportunity to comment upon the works and their potential impacts having regard, inter alia, to the information provided; and

-- agree to negotiate with Malaysia concerning any remaining unresolved issues.

The Hamburg-based Itlos ruled Wednesday that while Singapore could continue its controversial land reclamation activities in the Straits of Johor, both sides should form a group of independent experts to monitor the land reclamation activities and that Malaysia should be kept informed on all changes and developments taking place in the region.

Singapore is required to fulfil some of the conditions asked by Malaysia particularly in regard to full information about the details of the land reclamation activities -- a requirement which will to some extent make Singapore depend on Malaysia's own assessment of the work in the region.

The Itlos prescribed both Malaysia and Singapore to cooperate and enter into consultations forthwith in order to establish promptly a group of independent experts with the mandate to:

-- conduct a study, on the terms of reference to be agreed by Malaysia and Singapore, to determine, within a period not exceeding one year from Wednesday, Oct 8, the effects of Singapore's land reclamation and to propose, as appropriate, measures to deal with any adverse effects of such reclamation; and to prepare, as soon as possible, an interim report on the

subject of infilling works in Area D at Pulau Tekong;

-- exchange, on a regular basis, information on, and assess risks or effects of, Singapore's land reclamation works;

-- implement the commitments noted in the Itlos order and avoid any action incompatible with their effective implementation, and, without prejudice to their positions on any issue;

-- consult with a view to reaching a prompt agreement on such temporary measures with respect to Area D at Pulau Tekong, including suspension or adjustment, as deemed necessary, to ensure that the infilling operations, pending completion of the study, do not impair Singapore's ability to implement its commitments in its note of Sept 2 2003 to Malaysia.

In this note Singapore had agreed to carefully study Malaysia's evidence about any specific and unlawful adverse effects, and if the evidence proved compelling, to seriously re-examine its works and consider taking necessary steps, including suspension to deal with the adverse effect in question.

The Itlos ruling directed Singapore not to conduct its land reclamation in ways that might cause "irreparable prejudice to the rights of Malaysia" or serious harm to the marine environment, taking especially into account the reports of the group of independent experts.

Malaysia and Singapore would each submit their first report on the subject of infilling works in Area D at Pulau Tekong with a view to examining as soon as possible whether Malaysia's concerns in this region are properly based. This report should be submitted to the Itlos not later than Jan 9 2004.

Dr Mahathir said that he did not bother at all whether Malaysia would win or lose in its case at Itlos, but more importantly to know whether it was right or not for Singapore to undertake land reclamation works at the Straits of Johor.

"Sometimes you win, sometimes you lose. That's the essence of arbitration.

"You can't say that you take a case to arbitration, then you lose, therefore you are wrong," he said.

Dr Mahathir said that he believed any country which faced a similar situation would surely take the case to arbitration.

"Everybody takes their case to arbitration. Sometimes you win, sometimes you lose," he said.

He said Malaysia also welcomed the Itlos' unanimous decision to order both parties to cooperate and consult in establishing a group of independent experts with terms of reference agreed upon by both sides.

According to the Tribunal, he said, the group would have to conduct a study to determine the effects of Singapore's land reclamation and to propose measures to deal with adverse effects.

"On the other hand, they have to form the committee of experts and if it is found that they are causing some problem for Malaysia, they will have to stop," he said.

Commenting on his last meeting with the Menteri Besar and Chief Ministers which was also attended by several Cabinet ministers, he said that it had been conducted smoothly and carried out in a most favourable atmosphere.

"My last meeting them (Menteri Besar and Chief Ministers). I was able to give some advice.

"We were able to table seven papers (during the meeting), each of them was good," he said.

Dr Mahathir said that he also forwarded all the decisions made by the Cabinet ministers on matters related state affairs like water, waste disposal and charge rates to the Menteri Besars and Chief Ministers.

"The state government agreed to cooperate," he said.

The Prime Minister added that he always believe that each state government can improve on their performance in providing good service to the people.

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