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No choice but to seek arbitration (HL)

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JITRA, Sun. - Singapore's refusal to find a negotiated solution to its land reclamation activities in waters bordering Johor forced Malaysia to seek international arbitration.

Prime Minister Datuk Seri Dr Mahathir Mohamad today refuted claims by Singapore that Malaysia's decision to seek arbitration was "premature", saying that it was provided for under an earlier agreement by both countries.

"We chose negotiation, but it was not successful, so what else can we do, we can't be expected to go to war.

"It (arbitration) is provided for in our agreement if we cannot reach a settlement.

"So it is in accordance with the agreement which we had reached on the matter," he said after chairing a Kubang Pasu Barisan Nasional meeting.

Dr Mahathir is Member of Parliament for the constituency.

He was commenting on a statement by Singapore's Ministry of Foreign Affairs in response to a Press release by the International Tribunal for the Law of the Seas on Malaysia's request for provisional measures.

The statement said Singapore was disappointed that Malaysia had decided to submit the matter to arbitration and proceed to seek provisional measures.

Berita Minggu had on Feb 24 front-paged a report saying that Singapore had been carrying out land reclamation works in several parts of the republic, which could undermine the position of Johor's territorial waters.

Malaysia then expressed its concern over the reclamation works carried out in Pulau Tekong, arguing that it could make certain parts of the narrow Tebrau Straits and Johor Straits even narrower and shallower.

This would have made it almost impossible for large vessels to call at the Pasir Gudang and Tanjung Pelepas ports, with ships possibly having to enter Singapore instead of Malaysia.

Malaysian fishermen operating between Tanjung Balau and Pengerang also claimed that their livelihood had been severely affected by the reclamation works, which affected marine life and reduced the fish population in the area.

In the statement, Singapore claimed that it repeatedly asked Malaysia for technical reports to substantiate its concerns over the reclamation, and that Malaysia only sent the republic a Third Person Notice endorsing technical reports on July 4, 2003, over a year after the request was first made.

"Malaysia also gave Singapore notice that it was referring the reclamation issue to the international arbitration under the 1982 United Nations Convention on the Law of the Sea," the statement said.

"Although it took Malaysia more than a year to send us the technical reports, Malaysia gave Singapore an ultimatum to respond within two weeks," the statement continued.

Asked to respond to Singapore's allegation that Malaysia's move to seek arbitration was premature, Dr Mahathir said: "We have tried to negotiate for years, but we could not come to a decision, and not only could we not come to a decision, they (Singapore) went and told others things which are not true."

In the statement, Singapore also alleged that Malaysia had made the

cessation of reclamation works a pre-condition for further consultation which it did not agree with, since the talks "should be held without any pre-conditions".

Dr Mahathir said there were no conditions.

"It is not stated in that manner, whether there is a condition or not, but if we can no longer negotiate, then we should have arbitration.

"That should be the way. If we want to settle the matter, then we need a third party."