REPORT OF PANEL DISCUSSION ON DEFENDING OF MALAYSIA'S MARITIME NEGOTIATIONS AND CLAIMS

2003

MR
023

MARITIME INSTITUTE OF MALAYSIA
INSTITUT MARITIM MALAYSIA

REPORT OF PANEL DISCUSSION ON

DEFENDING OUR MARITIME FRONTIER: A HISTORY OF MALAYSIA'S MARITIME NEGOTIATIONS AND CLAIMS

9 SEPTEMBER 2003

MARITIME INSTITUTE OF MALAYSIA

REPORT ON
"DEFENDING OUR FINAL FRONTIER:
A HISTORY OF MALAYSIA'S MARITIME NEGOTIATIONS AND CLAIMS"
9 SEPTEMBER 2003
MIMA CONFERENCE ROOM

Panelists

Tan Sri (Dr.) Muhammad Ghazali Shafie
Tan Sri Datuk Zainal Abidin Sulong
Dato' Dr. Zakaria Yatim

Chairperson

Vice Admiral (Rtd) Dato' Seri Ahmad Ramli Mohd Nor

Introduction: Background

The aim of the panel discussion was:

1. To provide a background and understanding as to how Malaysia arrived at its maritime boundaries as embodied in the 1979 Peta Baru.

2. To provide the present and future generations of Malaysian decision-makers and bureaucrats with an understanding as to what drove decision-making in the 1960s and 1970s, and the various roles that politicians and bureaucrats played.

3. To improve our understanding of the maritime policy-making process over the years.

4. To highlight the strengths and weaknesses of Malaysia's maritime claims so that present bureaucrats will be better prepared to defend our claims.

5. To help strengthen our negotiating position with regard to our maritime boundaries in the face of current Indonesian attempts to re-open Malaysia-Indonesia bilateral maritime agreements with the aim of negotiating Exclusive Economic Zone lines.

6. To initiate a process whereby Malaysia's experiences in maritime negotiations and other key maritime policy matters, will be put on the record for posterity for the benefit of future generations. This will help preserve and maintain institutional memory.

The panelists were picked so that they would balance and complement each other. Tan Sri Muhammad Ghazali was a key politician and decision-maker during the 1960s-1970s. Tan Sri Datuk Zainal Abidin was a diplomat, negotiator and policy implementer while Dato' Dr. Zakaria provided the legal framework and rationale to underpin Malaysia's decisions made at that time.

All three also had special ties with, and a special understanding of, Indonesia and its leaders during their terms in office.

Altogether 37 representatives took part in the discussion. (See Appendix 4 and Appendix 5 for a full list of agencies and attendees).

Core Issues Discussed

The panel discussion focused on the following core issues:

1. **Background to the Peta Baru**: The background and events leading up to and affecting the official release of the 1979 Peta Baru.

2. **The two archipalegic corridors**: The reasons for Malaysia agreeing to the two designated corridors linking Peninsular Malaysia with Sabah and Sarawak across Indonesia's internal archipalegic waters and its implications for Malaysia.

3. **The Anambas Islands**: Whether Malaysia could or should have laid claim to the Anambas islands.

4. **Indonesian proposal to negotiate Indo-Malaysian EEZs**: The Indonesian proposal to negotiate Indonesian-Malaysian EEZs in the Malacca Straits and elsewhere, and the various strategies to deal with such a development.

5. **The Future of the Spratlys**: Malaysia's claims in the Spratlys and what strategies should be adopted vis-à-vis these claims.

Background to the 1979 Peta Baru: Malaysia's support of Indonesia's archipalegic claims

The panel pointed out that the Peta Baru was the result of Malaysia's support for Indonesia's archipalegic claims. This was essentially a political decision by the late Prime Minister Tun Abdul Razak which was made for the following reasons:

1. The conciliatory mood between Malaysia and Indonesia after the end of Confrontation in 1965, when Malaysia-Indonesia relations reached its peak in the late 1960s and the 1970s.

2. This resulted in the overall readiness of Malaysia to make concessions for the sake of maintaining good ties with Indonesia.

3. The impact of the formation of ASEAN in 1967, when positive ties with Thailand and Indonesia constituted the cornerstone of Malaysian foreign policy.

4. The absence of detailed instructions and objectives with regard to Malaysia's maritime claims during that period.

5. The absence of an experienced, well-trained and permanent cadre of Law of the Sea experts in the bureaucracy in general, and in the Ministry of Foreign Affairs in particular, who could understand and see the wider implications of Malaysia's maritime claims. It was pointed out that the Foreign Ministry depended on officers seconded from the Attorney-General's Chambers for legal expertise. It was felt that in-house legal expertise for the Foreign Ministry would be vital.

6. This situation was not the result of any government oversight or incompetence, but simply that the 1960s and 1970s was a period just after independence when Malaysia's primary focus was on nation-building. Hence, issues relating to land development, poverty-reduction and race relations were critical. Maritime issues were therefore not given priority at that time, because Malaysian leaders had other more pressing issues to worry about.

Impact of Indonesia's Archipelagic Concept

Tan Sri Muhammad Ghazali attributed the shape (claims) of the 1979 Peta Baru to the political decision by then Prime Minister the late Tun Abdul Razak in the late 1960s, (see Appendix 1 and 1.1) for Malaysia to support Indonesia's Archipelagic Concept in the United Nations. He explained that Tun Razak's decision was because of:

1. His perceived need to maintain strong and positive Malaysia-Indonesia ties after the end of Confrontation (1963-1965). This was reinforced by the perception that Indonesia was playing a key role in stopping the advance of Communist China into Southeast Asia at that time.

2. The importance of ensuring the success of ASEAN in 1967, with Indonesia as the de facto senior partner.

Sukarno's "Crush Malaysia" Confrontation campaign was carried out mainly by so-called volunteers from the Parti Komunis Indonesia (PKI) and elements of the Indonesian armed forces. The Indonesian Army by and large, however, was very suspicious of Sukarno's ties with the PKI. Thus, even at the height of Confrontation, Army negotiators were sent in secret to Malaysia to discuss with, among other people, Tan Sri Muhammad Ghazali, ways of toppling Sukarno and ending Confrontation. The man behind the secret negotiations was Suharto. Thus, after the end of Confrontation, a special relation developed between Suharto and members of the Malaysian elite. This was especially the case between Suharto and Tun Razak.

The panel agreed that ASEAN, too, influenced the way Malaysia defined its maritime boundaries. ASEAN was set up, among other reasons, to moderate Indonesia's influence and to ensure that force will never again be used to settle differences between the members of the Association. Tan Sri Muhammad Ghazali said that the influence of ASEAN should not be underestimated, and that good relations with Indonesia and Thailand formed the basis of Malaysia's foreign policy. It was in the light of this ASEAN spirit, and the Suharto-Tun Razak relationship, that the late Prime Minister decided that Malaysia would support Indonesia's attempts to seek archipelagic status. Tan Sri Datuk Zainal Abidin pointed out that the Malaysia-