



HA 30/20

The Permanent Mission of Malaysia to the United Nations presents its compliments to the Secretary-General of the United Nations and, with reference to the Note Verbale No. 000192-2020 dated 6 March 2020 addressed to the Secretary-General of the United Nations by the Permanent Mission of the Republic of the Philippines to the United Nations, has the honour to state the position of the Government of Malaysia as follows:

The Malaysia Partial Submission ("the Submission") to the Commission on the Limits of the Continental Shelf ("the Commission") for the remaining portion of the continental shelf of Malaysia beyond 200 nautical miles, in the northern part of the South China Sea, from its baseline from which its territorial sea is measured constitutes legitimate undertakings in implementation of the obligations of States Parties to the United Nations Convention on the Law of the Sea 1982 ("UNCLOS 1982").

The Government of Malaysia wishes to state that the Submission is consistent with Malaysia's rights and obligations for the delineation of the outer limits of its continental shelf where that shelf extends beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured in accordance with Article 76 (7) of UNCLOS 1982.

The Government of Malaysia categorically rejects the excessive maritime claims arising from the Kalayaan Island Group as asserted by the Republic of the Philippines as they have not conformed to Part IV of UNCLOS 1982 and have no basis under international law.

As regards the Philippines' assertion that the area overlaps with its future submission, the Government of Malaysia considers it as being premature in nature and emphasizes that the Submission is without prejudice to the position of States which are parties to a land or maritime dispute in accordance with the pertinent provisions of UNCLOS 1982 as well as the Rules of Procedure of the Commission.

With respect to the assertion of the Philippines that the "Malaysian submission is projected from portions of North Borneo over which the Republic of the Philippines has never relinquished its sovereignty", the Permanent Mission of Malaysia wishes also to inform the Secretary-General that Malaysia has never recognized the Republic of the Philippines' claim to the Malaysian state of Sabah, formerly known as North Borneo.

In this respect, the Permanent Mission of Malaysia wishes to reiterate and draw the attention of the Secretary-General to the Judgement of the International Court of Justice dated 23 October 2001 in the *Case Concerning Sovereignty over Pulau Ligitan and Pulau Sipadan and the Application by the Philippines for Permission to Intervene*. On the issue of the Philippines' claim to North Borneo, Judge Ad-hoc Thomas Franck, in a Separate Opinion stated that –

“in light of the clear exercise by the people of North Borneo of their right to self-determination, it cannot matter whether this Court, in any interpretation it might give to any historic instrument or efficacy, sustains or not the Philippines claim to historic title. Modern international law does not recognise the survival of a right of sovereignty based solely on historic title: not in any event, after an exercise of self-determination conducted in accordance with the requisites of international law, the bona fides of which has received international recognition by the political organs of the United Nations. Against this, historic claims and feudal pre-colonial titles are mere relics of another international legal era, one that ended with the setting of the sun on the age of colonial imperium”.

In light of the above, the Republic of the Philippines' claim to North Borneo clearly has no basis under international law.

In view of the foregoing, the Government of Malaysia respectfully requests the Commission to consider the Submission.

The Permanent Mission of Malaysia has further the honour to request that this Note Verbale be circulated to all members of the Commission, all States Parties to UNCLOS 1982 as well as all Members of the United Nations.

The Permanent Mission of Malaysia to the United Nations avails itself of this opportunity to renew to the Secretary-General of the United Nations the assurances of its highest consideration.



H.E. Mr. António Guterres
Secretary-General
United Nations