

# On the determination of "an interest of a legal nature" under Article 62 in the Indonesia v. Malaysia Case

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**Abstract.** The concept of "an interest of a legal nature" stipulated in Article 62 of the *Statute of the International Court of Justice* has, through long-term judicial practice, undergone a transformation from a result-oriented approach to one increasingly attentive to judicial reasoning and procedure. In the Indonesia v. Malaysia case, the intervention application submitted by the Philippines, for the first time, treated the interpretative impact of the Court's reasoning as a claimed legal interest, thereby revealing both the judicial value and the practical difficulties of "reasoning-related interests." Focusing on this case, the present article compares the distinguishing logic between direct interests and reasoning-related interests, analyzes the International Court of Justice's review approach concerning "legal identifiability," "the impact of judicial reasoning," and "procedural appropriateness," and argues that although the Court did not deny the existence of reasoning-related interests, it maintained institutional stability and judicial restraint through a stringent standard of proof. In light of China's practice, this article further explores the implications and challenges posed by such judicial logic for China's participation in international adjudication. Understanding and utilizing the concept of "reasoning-related interests" may assist China in securing a more proactive position within the interpretative framework of international law.

**Keywords:** *International Court of Justice*, interest of a legal nature, reasoning-related interests, participation in international adjudication

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## 1. Introduction

The "interest of a legal nature" provided for in Article 62 of the *Statute of the International Court of Justice* constitutes the core basis upon which third states may intervene in proceedings before the Court, and it also represents a key institution in international judicial procedure that embodies both openness and restraint. For a long time, the International Court of Justice has developed a result-oriented approach to the application of this provision, emphasizing that the interests asserted by a third state must bear a direct and concrete legal connection to the outcome of the judgment. However, with the development of international legal practice, the interpretative impact of judicial reasoning upon non-party states has become increasingly prominent, and "interests related to legal reasoning" have gradually emerged as a new issue challenging the traditional framework of determination.

In the Sovereignty over Pulau Ligitan and Pulau Sipadan case between Indonesia and Malaysia, the Philippines submitted an application for intervention on the ground that the Court's reasoning might affect its claim to North Borneo. This marked the first time that "reasoning-related interests" were formally brought within the Court's field of judicial scrutiny. The case not only clearly demonstrated the divergence between the traditional recognition of direct interests and the emerging recognition of reasoning-related interests, but also concentratedly reflected the Court's balancing and restraint among legal identifiability, the boundaries of interpretative impact, and procedural appropriateness. At present, scholarly research on Article 62 has largely focused on substantive interests and procedural standing, while insufficient attention has been paid to the interpretative spillover effects generated by judicial reasoning. Likewise, the institutional tensions underlying the Court's judicial logic and their implications for China have not yet been systematically examined.

Against this background, this article takes the *Indonesia v. Malaysia* case as its principal analytical example, reviews the judicial evolution and normative requirements of "an interest of a legal nature" under Article 62, distinguishes the respective approaches to determining direct interests and reasoning-related interests, and distills the International Court of Justice's standards for reviewing reasoning-related interests. In conjunction with the practical needs arising from China's participation in international adjudication, the article further discusses the implications and challenges of this institutional framework for China. It seeks to clarify the boundaries governing the recognition of reasoning-related interests, thereby providing both theoretical reference and practical insight for understanding the intervention mechanism of the International Court of Justice and enhancing China's discursive influence within the interpretative system of international law.

## **2. The historical evolution of the intervention regime under Article 62 of the International Court of Justice**

### **2.1. The historical development of the regime**

The notion that judicial proceedings concern only the two parties to a dispute had long prevailed in international law. It was not until 1875 that this conception began to loosen slightly. As an early manifestation of the idea of intervention, the *Institute of International Law* adopted the *Draft Rules of Procedure for International Arbitral Tribunals* in that year, recognizing participation by third parties to a highly limited extent [1]. In 1920, when the Hague Committee of Jurists drafted the Statute of the Permanent Court of International Justice (PCIJ), its members, for the first time, considered the possibility of third-state participation within procedural provisions [2], thereby laying the institutional foundation for the intervention regime. Between 1921 and 1924, Articles 62 and 63 of the PCIJ Statute formally established the possibility of third-state participation in litigation. During this period, the intervention mechanism primarily focused on interests relating to treaty interpretation, while the concept of "an interest of a legal nature" remained undefined [3]. The 1945 Washington Committee of Jurists and the subsequent San Francisco Conference largely inherited these provisions without substantial modification. This continuity is principally reflected in the wording and structure of the *Statute of the International Court of Justice* (hereinafter "the Statute"), whose overall style followed that of the PCIJ Statute, differing only in certain linguistic translations and minor procedural formulations.

In practice, the Statute established two distinct forms of intervention. The first is the intervention mechanism based on Article 63 of the Statute <sup>1</sup>, under which participation rights arise through treaty membership. Where the interpretation of a treaty may be implicated in a case before the Court, all states parties to that treaty possess an interest in its interpretation and may accordingly apply to intervene. The

second, which constitutes the principal subject of this article, is intervention pursuant to Article 62 of the Statute. This provision has been described as "the most flexible procedural provision" within the institutional design of the Court. Its significance lies in permitting third states to participate in the formation of international legal norms without altering the structure of the principal parties to the dispute. Moreover, this form of intervention was intended to remedy the inadequacies of Article 59 of the Statute with respect to protecting third states situated outside the litigation process [4, 5].

Scholars generally agree that although Article 59 limits the binding force of judgments to the parties to the case, it does not preclude such judgments from exerting certain effects upon non-party states [6-10]. Taking Judge Schwebel's dissenting opinion in the Italy intervention case as a theoretical point of reference, the principle that "the judgment is binding only upon the parties" under Article 59 possesses inherent limitations. While the provision defines the formal scope of a judgment's binding force, it fails to address the "potential impact" that third states may face as a consequence of judicial reasoning or treaty interpretation. In this sense, Article 62 may be regarded as a precise institutional supplement to the deficiencies of Article 59. By granting intervention rights to third parties whose "interest of a legal nature" may be affected, Article 62 expands the range of third states entitled to procedural protection.

## 2.2. The evolution of judicial practice concerning the determination of "an interest of a legal nature" under Article 62

Building upon the foregoing examination of the historical development of Article 62 and its supplementary role vis-à-vis the principle of binding force under Article 59, it may further be observed that the concept of "an interest of a legal nature" did not emerge as a self-contained doctrine. Rather, its distinctive review standards gradually evolved through the accumulation of judicial practice in multiple intervention cases.

Beginning with the 1981 *Continental Shelf (Tunisia/Libyan Arab Jamahiriya)* case, the Court, for the first time, explicitly clarified that the interest underlying intervention must be "specific rather than abstract," thereby excluding intervention claims founded merely upon general principles of international law or broad jurisprudential concerns [11]. This determination established the basic limitation governing the application of the regime and brought the concept of "an interest of a legal nature" from the abstract realm of legal theory into a judicially identifiable and verifiable framework. Subsequently, in the 1990 *Land, Island and Maritime Frontier Dispute* case (Nicaragua's application for intervention), the Court further established the requirement that a "substantial connection" must exist between the asserted interest and the core subject matter of the dispute. At the same time, it acknowledged the possibility of participation by non-party states even in the absence of a direct sovereignty dispute, thereby providing jurisprudential support for the openness of the intervention mechanism [12]. The 1999 *Land and Maritime Boundary between Cameroon and Nigeria* case marked a further expansion of this standard. Without involving any overlapping territorial claims, the Court accepted a third-party intervention claim based upon the argument that the Court's reasoning might affect the applicant state's rights in adjacent maritime areas. In doing so, the Court gave practical expression, for the first time, to the notion of "reasoning-related interests [13]." Entering the twenty-first century, the Court in the *Sovereignty over Pulau Ligitan and Pulau Sipadan* case explicitly defined the term "judgment" as encompassing "both the operative clause and the necessary reasoning constituting the basis of that clause,"

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<sup>1</sup> Article 63 of the *Statute of the International Court of Justice* provides: Whenever the construction of a convention is in question in a case, and states other than those concerned in the case are parties to the convention, the Registrar shall notify all such states forthwith. Every state so notified has the right to intervene in the proceedings; but if it exercises this right, the interpretation contained in the judgment shall be equally binding upon it.

thereby transforming what had previously existed merely at the level of judicial practice into a normative interpretation [14]. In subsequent cases, including *Jurisdictional Immunities of the State (Germany v. Italy)* [15], the Court maintained this position, extending the scope of "affected legal interests" to include legal determinations embedded within judicial reasoning. Accordingly, the determination of "an interest of a legal nature" under Article 62 has evolved from restriction to expansion and from formalism to substantive evaluation, thereby providing both institutional and theoretical foundations for the Court's subsequent handling of third-party intervention requests in complex sovereignty disputes.

### 2.3. The increasing openness of international legal interpretation

As judicial practice has continuously expanded the scope of "an interest of a legal nature" under Article 62, the International Court of Justice has, in effect, initiated a reconfiguration of the interpretative function of international law.

With the continuing development of the Court's standards for determining "an interest of a legal nature" under Article 62, the institutional function of intervention has gradually transcended the mere procedural question of participation and has increasingly become an important mechanism for promoting greater openness in the interpretation of international law. Viewed from a broader perspective, the intervention regime has undergone a transition from "legal-interest intervention" to intervention based upon "interpretative interests." Early cases established foundational requirements such as the need for the asserted interest to be "specific rather than abstract" and to possess a "substantial connection" with the subject matter of the dispute. Subsequent judicial practice, however, progressively acknowledged that third states may be legally affected by the reasoning portions of the Court's judgments [16]. This development signifies that the intervention mechanism protects not only the rights expectations of individual states, but also the shared concern of states regarding the interpretative process of international legal norms.

In this sense, the intervention regime has become an "external supplement" to the interpretative framework of international law. It provides non-party states with a channel through which they may express their positions and submit legal views. As scholars have observed, judgments of the International Court of Justice do not merely resolve individual disputes; they also contribute to the construction of the normative system of international law [17]. Accordingly, the intervention mechanism is not merely a technical procedural rule, but also an institutional embodiment of the tension between openness and control within the international judicial system.

## 3. The normative framework and general requirements for determining "an interest of a legal nature"

Although the historical evolution of the intervention regime reveals the institutional logic underlying its emergence, a genuine understanding of its significance in judicial operation requires a return to the normative level and an examination of the constituent requirements that define "an interest of a legal nature." Accordingly, this section returns to the treaty text itself, beginning with Article 62 of the *Statute of the International Court of Justice*<sup>2</sup>. While the wording of the provision is concise, the International Court of

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<sup>2</sup> Article 62 of the *Statute of the International Court of Justice* provides: Should a state consider that it has an interest of a legal nature which may be affected by the decision in a case, it may submit a request to the Court to be permitted to intervene. It shall be for the Court to decide upon this request.

Justice has, through the accumulation of decisions in multiple cases, gradually transformed this vague textual concept into an operational judicial standard. In doing so, the Court has developed a framework consisting of three fundamental elements: "legal nature," "the possibility of being affected by the judgment," and "substantial connection." This chapter proceeds in accordance with that logic. Taking the *Indonesia v. Malaysia* case as the principal analytical model and comparing it with standards established in prior jurisprudence, it examines whether the intervention claim in question satisfies these general requirements in concrete judicial review, thereby laying the normative foundation for the subsequent discussion of "interpretative interests."

### 3.1. Defining "legal nature": excluding general international concerns

Within the structure of Article 62 of the *Statute of the International Court of Justice*, "an interest of a legal nature" constitutes the logical starting point of the entire intervention regime and the primary threshold in the Court's review process. This requirement is intended to delineate the scope of admissible intervention interests, ensuring that the intervention mechanism serves the stability of the legal order rather than becoming a vehicle for political or policy-based claims. It requires that the interest asserted by a third state possess a clear legal character, namely that it be grounded in rights or legal positions recognized under international law.

The Court first articulated the normative requirements of "legal nature" in the 1981 *Continental Shelf (Tunisia/Libyan Arab Jamahiriya)* case. Malta argued that its geographical position and potential continental shelf rights might be affected by the judgment and therefore sought intervention. The Court held, however, that the interest underlying intervention must be based upon specific legal rights or legal positions, rather than upon political, economic, or geopolitical considerations [11]. In this way, the Court established the boundary between political, geographical, or purely policy-based interests and judicially cognizable legal interests. More importantly, the Court further emphasized that:

"A State could not hope to intervene simply on an interest in the Court's pronouncements in the case regarding the applicable general principles and rules of international law [11]." This statement signifies that a state cannot claim a right of intervention merely because it is concerned with how the Court interprets principles or rules of international law in a particular case. The Court thereby established a dual limitation within the "legal nature" requirement: on the one hand, it excludes purely factual or policy-oriented interests; on the other hand, it excludes abstract concerns regarding general principles of international law. As Rosenne has observed, the right of intervention must be based upon "a juridical kind of interest, rooted in legal rights or obligations recognized by international law"; otherwise, it would depart from the judicial function of the International Court of Justice [18]. This requirement demonstrates that from the very inception of the intervention regime, the Court insisted upon confining litigation to "interests situated within the legal order." The 1990 *Land, Island and Maritime Frontier Dispute* case reaffirmed and strengthened this position. The Court stated that "the claim to intervention must be grounded in a specific legal position or right, rather than in a general concern regarding principles of international law [12]."

Returning to the *Indonesia v. Malaysia* case, the definition of "legal nature" once again became the focal point of judicial scrutiny. The Philippines argued that it possessed "historical and legal rights" over North Borneo (present-day Sabah). The Court, however, considered that the materials submitted by the Philippines consisted primarily of historical documents and colonial-era statements, which failed to demonstrate how these materials constituted an identifiable legal position under contemporary international law. The Court therefore concluded that the interests asserted by the Philippines "were not interests of a legal nature, but rather historical or political concerns [14]."

It may thus be observed that the International Court of Justice has developed a relatively stable analytical framework. First, the interest invoked for intervention must be grounded in identifiable rights or legal positions recognized under international law, thereby excluding considerations based upon geographical, economic, or policy factors. Second, the asserted interest must possess the character of a legal right, rather than amounting merely to an abstract interest in general principles of international law. Third, the claim must be normatively verifiable, meaning that it must be capable of recognition within the international legal system as a rights claim subject to legal regulation, interpretation, and evaluation.

These three criteria together constitute the complete normative contours of the "legal nature" requirement. They not only delimit the scope of application of Article 62, but also provide the logical premise for subsequent requirements—particularly the "possibility of being affected by the judgment." In other words, only where a state can demonstrate that its asserted interest possesses an independent legal foundation will the Court proceed to examine whether that interest may be affected by the judgment. Otherwise, the proceedings will terminate at the preliminary review of "legal nature."

### 3.2. Proving the "possibility of being affected": the evidentiary threshold of "particular clarity"

If "legal nature" defines the manner in which an interest exists, then the "possibility of being affected" determines whether the Court should admit that interest into participation in a particular case. This requirement obliges the third state to demonstrate a reasonably inferable legal chain linking its asserted legal position to the judgment the Court is about to render. In the 1990 Land, Island and Maritime Frontier Dispute (Nicaragua Application for Intervention) case, the Court, for the first time, expressly clarified the applicant state's burden of explanation: the third state must demonstrate "with particular clarity" the legal connection between its interests and the outcome of the judgment [12]. Nicaragua argued that the maritime delimitation between other states might affect its maritime areas. The Court, however, held that its reasoning lacked an "identifiable legal path"; that is, Nicaragua failed to explain how the judgment would alter the scope of its rights at the legal level. On this basis, the Court rejected the application for intervention. This decision demonstrates that the Court's requirement concerning the "possibility of being affected" is not concerned with empirical or factual influence as such, but rather with coherence in legal reasoning. The applicant state must be capable of presenting a legally recognizable causal chain.

In the Equatorial Guinea intervention case, the asserted interests concerned maritime areas adjacent to the disputed waters, such that the object of the third state's claimed rights overlapped with the subject matter of the dispute between the parties. The Court held that the judgment, "in determining the ownership of the maritime areas concerned, might affect the legal position of adjacent maritime areas belonging to a third State [13]." Where the legal claims of a third state intersect spatially or materially with the subject matter of the dispute, the "possibility of being affected" becomes considerably more foreseeable. This case marked the first occasion on which the Court characterized such influence as a necessary consequence of overlapping rights objects rather than as mere speculation regarding future consequences.

By contrast, although the Philippines argued that the Court's interpretation of historical treaties might affect its claim to North Borneo, it failed to explain how such influence would arise within the legal sphere. Nor did it specify how the interpretation of those treaties would concretely negate or weaken the legal basis of its sovereignty claim. The Court therefore concluded that the claim "lacked sufficient specificity." This further demonstrates that the "possibility of being affected" does not require certainty of injury to rights; rather, it requires that the mechanism of influence be concrete and traceable.

From an institutional perspective, the evidentiary logic involved here is highly stringent. The "possibility of being affected by the judgment" has thus become the most restrictive requirement within the intervention

regime. Its function lies not only in limiting the scope of third-state intervention, but also in preserving the stability of the Court's exercise of jurisdiction. As this requirement has become increasingly rigorous, the boundaries of the intervention mechanism have gradually become more clearly defined.

### 3.3. "Substantial connection" between the interest and the case: remaining within the scope of the principal dispute

Whereas the "possibility of being affected" requires a third state to explain the path of legal influence, "substantial connection" further asks whether that influence exists within the same legal controversy or factual sphere as the dispute before the Court. At this stage, the Court no longer examines whether the third state's claim possesses a legal nature, nor whether the judgment may produce influence. Rather, it determines whether the intervention request constitutes an extension of the same legal relationship underlying the principal dispute, or whether it instead creates a new and independent controversy.

In judicial practice, the Court generally evaluates the existence of "substantial connection" from two perspectives. The first concerns a common legal basis. Where the rights asserted by the third state and the parties derive from the same treaty or rule of international law, the legitimacy of intervention is more readily established. In the *Cameroon v. Nigeria* case, Equatorial Guinea relied upon the *United Nations Convention on the Law of the Sea* as the common legal source, and the Court accordingly found that its claims were "connected to the core legal issues of the case." The second concerns the scope of adjudication. The Court has frequently refused to consider claims extending beyond the scope of the parties' submissions in order to prevent an excessive expansion toward "objective jurisdiction." A representative example is the 1981 *Continental Shelf (Tunisia/Libyan Arab Jamahiriya)* case. Italy claimed continental shelf rights within the same Mediterranean region and feared that the Court's delimitation might affect its interests. The Court nevertheless held that Italy's claim "did not derive from the legal relationship between Tunisia and Libya, but instead constituted an independent dispute [11]." The intervention procedure under Article 62 "was not designed to permit third states to introduce new claims, but only to express their interests within the legal framework of the existing dispute." This once again reaffirmed that the intervention regime must not be misused for "claim substitution" or "litigation expansion." Its essential function is not to broaden the scope of adjudication, but rather to "accommodate the expression of third-party interests while preserving the closed structure of the proceedings [19]." The definition of "substantial connection" itself reflects the Court's judicial restraint. It functions both as a technical device preventing intervention from evolving into litigation expansion and as an institutional safeguard preserving the stability of judgments.

The decision in the *Philippines* intervention application vividly demonstrates the necessity of maintaining this balance. Had the Court recognized a substantial connection between the Philippine claim and the principal case, it would inevitably have been required to examine the interpretation of the 1878 *Sulu Agreement* and issues concerning the succession of colonial rights. This would have drawn the Court into a historical dispute lacking any direct legal connection with the principal proceedings. The Court therefore expressly stated that Article 62 was not intended to support "rights claims awaiting confirmation," but rather to provide procedural access only to those third states whose interests existed within the same legal framework as the dispute already before the Court.

In the *Indonesia v. Malaysia* case, the Court applied the three principal review criteria under Article 62 in a relatively concentrated manner, as discussed above. At the same time, however, the Court left behind an important unresolved issue. Its interpretation of the term "judgment"—namely, that the judgment includes both the operative clause and the reasoning necessary to support it—introduced a significant institutional implication: judicial reasoning itself may also become an object capable of producing legal effects.

## 4. A dual typological analysis of "interests related to legal reasoning" in the present case

In the practical application of Article 62 of the *Statute of the International Court of Justice*, the "interest of a legal nature" asserted by a third party is generally divided into two categories. The first consists of interests directly connected with the subject matter of the litigation, namely independent legal claims held by the third state in relation to the core object of the dispute itself. The second consists of interests related to the Court's legal reasoning, that is, situations in which the Court's interpretative positions regarding treaty interpretation or the application of legal rules within its reasoning may potentially affect the legal status or rights basis of a third state.

If the essence of the former lies in "conflicts of rights," the latter centers upon the "spillover effects of judicial reasoning." Taking the Philippines' application for intervention in the *Indonesia v. Malaysia* case as an example, this section focuses on the criteria for identifying "reasoning-related interests" and their judicial application, thereby revealing both their independent value and their practical limitations within the third-party intervention regime of the International Court of Justice.

### 4.1. The reasoning-related interests asserted by the Philippines and their deficiencies

#### 4.1.1. *The emergence of reasoning-related interests*

In 2001, Indonesia formally instituted proceedings against Malaysia before the International Court of Justice concerning sovereignty over Pulau Ligitan and Pulau Sipadan. Located in the maritime region of Southeast Asia, the two islands occupy a strategically significant geographical position. The sovereignty dispute originated in colonial-era arrangements concerning the succession of rights and territorial delimitation, involving the application of multiple historical treaties and rules of international law, and had long remained unresolved between the two states. The background to the Philippines' intervention request stemmed from the longstanding dispute concerning sovereignty over North Borneo (present-day Sabah). The Philippine government asserted that, pursuant to the 1878 lease agreement concluded between the Sultan of Sulu and the British businessman Alfred Dent Overbeck, as well as subsequent instruments such as the 1891 *Anglo-Dutch Convention*, it possessed historical rights over North Borneo. On this basis, it claimed to hold "an interest of a legal nature" in relation to North Borneo, and further argued that such interest might be affected by the Court's legal reasoning in the principal case. The core of the Philippine request was not to participate directly in the sovereignty dispute between Indonesia and Malaysia over the islands themselves, but rather to express concern that the Court's legal analysis in interpreting treaties and assessing historical documents might indirectly affect its position concerning North Borneo [14]. In its application for intervention submitted on 13 March 2001, the Philippines argued that the Court, in adjudicating the principal case, would necessarily rely upon "treaties, agreements and any other evidence" between Indonesia and Malaysia, and that such treaties and evidence bore "a direct or indirect connection with the legal status of North Borneo [14]." The Philippines therefore maintained that, should the Court interpret or evaluate these materials within the reasoning portion of its judgment, the resulting conclusions "will inevitably and most assuredly affect the outstanding territorial claim of the Republic of the Philippines to North Borneo [14]." Accordingly, the "interest" asserted by the Philippines did not concern the operative clause of the judgment itself, but rather the interpretative consequences arising from the Court's reasoning process.

This type of claim may be summarized as a "reasoning-related interest," namely a situation in which a state believes that the Court's interpretation and reasoning in the course of elaborating its judgment may affect the state's potential rights [18]. Unlike the traditional concept of a "direct legal interest," the central focus of a

reasoning-related interest lies in the Court's reasoning process itself. The applicant state must demonstrate how the Court's interpretation of treaties, findings of historical fact, or delineation of the scope of rights may affect its legal position, without necessarily proving that the final operative decision would directly alter that position. The essence of such an interest therefore lies not in the result of the judgment, but in the possible "legal spillover effects" generated by the Court's interpretative activity.

#### *4.1.2. Deficiencies in the Philippine argument*

Compared with direct interests, reasoning-related interests involve a more complex evidentiary structure. Their foundation lies not in the actual existence of the asserted right itself, but rather in the "interpretative impact" that the Court's reasoning may produce. In its application, the Philippines emphasized that the Court's interpretation of the 1878 *Sulu Agreement* and the 1891 *Anglo-Dutch Convention* would inevitably touch upon historical evidence concerning sovereignty over North Borneo, thereby affecting its legal identity as a successor state [20]. During oral proceedings, the Philippine delegation further argued that even if the judgment formally concerned only sovereignty over Pulau Ligitan and Pulau Sipadan, the Court's interpretative conclusions in its reasoning could nonetheless "indirectly determine" the future legal direction of the Sabah sovereignty issue. The central concern underlying its intervention request was therefore not the judgment's operative result, but rather the possibility that the Court's reasoning might constrain or weaken its claim.

Despite these arguments, the Philippines failed to establish a "specific legal connection" between the Court's reasoning and its asserted rights, thereby revealing significant structural deficiencies in its argumentation. Although the Philippines relied upon various historical documents and diplomatic notes in its written submissions, those materials merely demonstrated geographical and historical connections between North Borneo and the disputed islands. They did not explain how the Court's interpretation of those documents would produce legally significant effects upon Philippine rights [20]. In its judgment, the Court emphasized that an applicant state must demonstrate "with particular clarity" the possibility that its interests would be affected, and further stressed that "mere speculative links" could not constitute an interest of a legal nature within the meaning of Article 62 [14]. The Philippines failed to answer the critical question of which specific legal determinations made by the Court during its interpretative reasoning would alter its existing legal position.

Methodologically, the Philippines also failed to distinguish between "interpretative impact" and the "result of adjudication." Its submissions repeatedly asserted that "the judgment would affect Philippine rights," yet did not clearly identify whether such "effect" would arise from legal presumptions embedded within the Court's reasoning or from factual consequences flowing from the operative judgment itself [20]. This deprived its claim of logical independence and rendered it difficult for the Court to accept. In response, the Court explicitly stated that the Article 62 regime was not designed to provide third states with an avenue to challenge the Court's interpretative reasoning; participation would be permitted only where "legal interests are directly affected [20]." Consequently, the Philippine argument failed to satisfy the Court's requirements of "identifiability" and "specificity" with respect to reasoning-related interests.

Finally, the Philippines failed adequately to establish the "legal nature" of its asserted interests. Its application focused primarily upon historical facts and geographical extension, while providing insufficient systematic explanation as to whether its claim constituted an identifiable sovereignty right or other legally cognizable entitlement [21]. This deficiency made it difficult for the Court to determine whether the asserted interest possessed an independent legal character. The Court expressly stated in its judgment that the Philippines "had not demonstrated that its rights would be legally affected either by the reasoning or by the operative decision in the present case." On this basis, the Philippines case illustrates the inherent difficulty of

intervention claims founded upon judicial reasoning: unless an applicant state can establish a clear connection between interpretative impact and concrete legal consequences, such reasoning-related interests are unlikely to satisfy the evidentiary requirements of Article 62.

#### 4.2. The court's standards for reviewing reasoning-related interests

Although the Philippines' intervention application contained structural deficiencies, the more illuminating aspect of the case lies in the nuanced logic demonstrated by the International Court of Justice in its treatment of "reasoning-related interests." Rather than simply denying the existence of such interests, the Court incorporated them into its broader assessment of "an interest of a legal nature" through a layered and progressively structured analysis. The Court's overall approach remained anchored in the "affected interest" standard under Article 62 of the Statute, emphasizing that an application for intervention must rest upon an identifiable legal connection. On that basis, the Court further examined both the legal character and the evidentiary strength of the asserted interests, thereby preventing political, factual, or potential diplomatic concerns from being mischaracterized as legal interests. At the same time, the Court considered whether a perceptible logical connection existed between the alleged "interpretative impact" and the operative judgment itself. Only where the Court's interpretation might produce actual legal consequences for an existing legal position could such interests potentially fall within the scope of Article 62 review. Finally, at the institutional level, the Court introduced considerations of "propriety" in order to assess whether intervention might disrupt the procedural structure of the case or undermine judicial independence. Through this multidimensional approach, the International Court of Justice established a dynamic balance between institutional stability and interpretative openness, ensuring that reasoning-related interests would neither be readily accepted nor categorically excluded.

##### *4.2.1. Formal point of departure: the strict application of the Article 62 "affected interest" standard*

In the present case, the Court's point of departure remained the fundamental requirement established under Article 62(1) of the *Statute of the International Court of Justice*, namely that the applicant for intervention must demonstrate that its "interest of a legal nature" may be affected by the judgment. Unlike earlier cases concerning only direct interests, the Philippines argued that the Court's interpretative activity within the reasoning portion of the judgment might itself affect Philippine rights. Faced with this novel type of claim, the Court did not deny that judicial reasoning might produce legal consequences for third states. Instead, it firmly placed the burden of proof upon the applicant state, requiring the Philippines to demonstrate "with particular clarity" how its interests might be affected by the Court's reasoning [14]. This formulation indicates that, at the formal level, the Court continued to adhere to the traditional "effects-based" framework under Article 62. In substance, however, the Court had already recognized the potential existence of interpretative impact arising from judicial reasoning, but chose to address this emerging category of interests by imposing a heightened evidentiary threshold.

##### *4.2.2. Core examination: the "legal identifiability" of interpretative impact*

The substantive focus of the Court's review of reasoning-related interests lay in the "identifiability" of the relationship between interpretation and rights. The underlying logic was that only where the applicant could specifically identify which legal determination within the Court's reasoning, or which interpretation of a treaty or historical instrument, might alter its existing legal position, could an "interest of a legal nature" arise within the meaning of Article 62 [14]. The Philippines submitted documents such as the 1878 *Sulu Agreement* and the 1891 *Anglo-Dutch Convention*, arguing that these instruments were closely connected to the sovereignty issues involved in the principal case. The Court, however, considered that these materials merely demonstrated geographical and historical links between North Borneo and the disputed islands, without establishing "how

the Court's reasoning would alter the legal basis of Philippine rights [14]." This stringent requirement of legal identifiability demonstrates the Court's cautious attitude toward reasoning-related interests. The Court acknowledged that interpretative impact might exist, but would consider such interests only where the alleged impact could be legally identified and objectively substantiated. Judge Oda's dissenting opinion further supplemented this logic. He argued that the majority's requirement of "identifiability" was excessively demanding, rendering the intervention regime incapable of responding to the interpretative consequences arising from complex contemporary disputes. In his view, the Court should adopt a more open procedural approach so that non-party states could raise legal concerns related to interpretation at an earlier stage of proceedings [22]. This perspective illustrates that, although the Court recognized the conceptual possibility of "reasoning-related interests," their practical recognition remained constrained by the Court's highly cautious evidentiary standards.

#### *4.2.3. Relational assessment: the connection between interpretative impact and the operative judgment*

Significantly, the Court did not entirely separate interpretative impact from the operative judgment itself. Rather, it stated that only where the interpretation or reasoning contained in the judgment was capable of altering the legal position of a third state could such interests be regarded as "affected by the judgment [22]." In other words, interpretative impact had to satisfy a certain "threshold of effect": it was not sufficient for there merely to exist a logical connection; the reasoning also had to possess the capacity to generate legal consequences. The Philippines argued that if the Court interpreted the *Sulu Agreement* as constituting a "transfer of sovereignty," such an interpretation would weaken the Philippine claim to Sabah. However, it failed to demonstrate either that the Court would necessarily adopt such an interpretation or that the interpretation would directly alter the legal status of Philippine rights. Evidently, the Philippine argument depended upon an assumed future interpretation by the Court, relying upon hypothetical reasoning to complete its chain of argumentation. This rendered the overall argument insufficiently persuasive.

Judge Koroma, in his separate opinion, likewise warned that equating judicial reasoning with the operative judgment involved significant risks in terms of legal effect. Such an approach might compel the Court to exercise excessive caution in formulating its reasoning in future cases, thereby undermining the integrity of its judicial function [23]. This observation reveals the institutional concern underlying the Court's treatment of reasoning-related interests: although recognition of interpretative impact could help protect the interpretative rights of third states, it might also result in the Court's reasoning being treated as legally binding upon non-parties, thereby eroding the established distinction between the operative judgment and its supporting reasoning.

#### *4.2.4. Considerations of propriety: balancing judicial restraint and procedural boundaries*

Where the Court could not clearly determine whether interpretative impact would produce legal consequences, it further employed "considerations of propriety" as the ultimate basis for decision-making. The purpose of the intervention procedure, the Court emphasized, is not to provide third states with a mechanism to contest the Court's interpretations, but rather to ensure the protection of their legal interests where necessary. If admitting reasoning-related interests would require the Court to adjudicate rights claims not yet crystallized into an actual dispute, such intervention would exceed the proper scope of the Court's judicial function [14]. Accordingly, the Court chose, at the institutional level, to treat procedural propriety as the final filtering mechanism. By maintaining concentration upon the core issues of the case and limiting the scope of its judicial role, the Court sought to preserve the overall stability of the intervention regime.

At the same time, some scholars have argued that, as a mechanism of international judicial cooperation, the intervention regime should not focus excessively upon procedural restriction. Rather, within reasonable limits, it should allow third states to articulate concerns regarding interpretative impact, thereby enhancing the

comprehensiveness and fairness of judicial interpretation [24]. This perspective likewise reflects the Court's broader posture. The propriety analysis developed in judicial practice represents a balancing exercise between "procedural legitimacy" and "judicial openness." It reflects the Court's internal logic of judicial self-restraint in preserving its adjudicative function, while also revealing the structural difficulty faced by reasoning-related interests: such interests have been partially acknowledged within the institutional framework, yet remain difficult fully to realize in practice. This restrictive treatment of reasoning-related interests constitutes, in essence, a procedural safeguard. It also reflects the Court's effort to preserve the internal coherence of the international legal order. The practical significance of reasoning-related interests lies in their extension of state concerns beyond the assertion of substantive rights toward participation in the interpretative process itself, thereby enriching the institutional structure of international adjudication.

#### 4.3. The distinction between direct interests and reasoning-related interests: logic and judicial significance

Through its long line of jurisprudence, the Court has established the traditional category of direct interests, the essence of which lies in the existence of a direct legal connection between the rights or obligations of a third state and the subject matter of the dispute. Such interests possess several distinctive characteristics: the object of the interest corresponds to the legal effects of the judgment; the impact upon the interest can be identified at the level of the operative outcome; and the evidentiary structure centers upon substantive rights. In the *Continental Shelf (Tunisia/Libyan Arab Jamahiriya)* case, the Court expressly stated that a third state must demonstrate that its rights concerning the subject matter of the dispute might be directly affected by the judgment in order to constitute "an interest of a legal nature" within the meaning of Article 62. This "result-oriented" approach to determining legal interests preserves the controllability of intervention proceedings and is consistent with the Court's respect for the principle of state consent. By contrast, reasoning-related interests are not directed toward the operative outcome of the judgment itself, but rather concern the legal interpretations and factual determinations contained within the Court's reasoning. Their logical characteristics may be summarized as follows: the alleged impact upon the interest arises from the Court's interpretative activity rather than from the judgment's operative effects; the relevant influence is potential and indirect, yet may generate interpretative consequences for the applicant state's future legal claims; and the evidentiary structure emphasizes the logical relationship between interpretation and rights, rather than any direct alteration of rights themselves. Reasoning-related interests therefore focus not upon "what conclusion the judgment reaches," but rather upon the procedural question of "how the Court arrives at that conclusion." They reflect third states' concern with the spillover effects of judicial interpretation and constitute a typical form of "procedural interest." In the *Philippines intervention* case, this distinction in legal logic became the central issue of judicial examination. The Philippines did not claim direct rights over Pulau Ligitan or Pulau Sipadan; rather, it argued that the Court's interpretation of the 1878 *Sulu Agreement* and the 1891 *Anglo-Dutch Convention* might affect its sovereignty position regarding Sabah. Its asserted interests were thus embedded within the Court's interpretative activities during the reasoning process, rather than within the final operative judgment itself.

Modern international disputes frequently involve complex and overlapping legal relationships among multiple states. In such circumstances, the Court cannot entirely isolate the legal interests of third states during the interpretative process. Direct interests are comparatively easier to identify because the interests of the third state and the operative effects of the judgment can form a verifiable legal relationship, thereby satisfying the practical requirements of judicial adjudication. By contrast, reasoning-related interests concern the potential impact of judicial interpretation itself, and their assessment often depends upon the hypothetical proposition of

"how interpretation may affect the rights of a third state." For this reason, the Court has adopted a more defensive institutional logic in practice, including stricter scrutiny concerning the "legal applicability" of interpretative impact, the relationship between reasoning and the operative judgment, and broader considerations of judicial propriety. These enhanced standards reflect the distinction between direct interests and reasoning-related interests, enabling the International Court of Justice to balance two competing values: on the one hand, the certainty and stability of adjudicative authority; on the other, the openness of interpretative influence. This distinction ultimately reveals the inherent tension within the Court's intervention regime. The Court must simultaneously preserve the concentration and procedural orderliness of litigation while responding to broader expectations within the international community concerning interpretative transparency and the universal relevance of judicial reasoning. The Philippines case brought this tension into explicit judicial form for the first time. Its significance therefore extends beyond the mere rejection of an intervention application. More fundamentally, it prompted the International Court of Justice to reconsider the interpretative boundaries of the core concept of "an interest of a legal nature" in the broader context of balancing "substantive justice" and "procedural justice."

## **5. Implications and challenges for China**

In the Philippines intervention case, the International Court of Justice's interpretation of "an interest of a legal nature" under Article 62 revealed the delicate relationship between institutional boundaries and interpretative openness within international adjudication. While maintaining procedural stability and preventing excessive expansion of litigation, the Court, through its discussion of "reasoning-related interests," also demonstrated the expanding interpretative tendencies of international law in the context of increasingly complex contemporary disputes. For China, whose participation in international adjudication is gradually broadening, this judicial logic offers both important institutional insights and significant practical challenges.

### **5.1. Institutional and conceptual implications**

The cautious reasoning displayed by the International Court of Justice in handling the Philippine application for intervention provides a methodologically significant example for understanding "reasoning-related interests." Where an applicant state asserts that the Court's interpretation may affect its interests, it must clearly explain how such interpretation legally touches upon the foundation of its rights. From China's perspective, this logic highlights the importance of "procedural rights" within international adjudication. Traditional international litigation has largely revolved around substantive claims. The Philippines case, however, demonstrates that the risks states encounter within the international legal system may arise not only from the operative outcome of judgments, but also from the interpretative authority generated through judicial reasoning. The reasoning sections of International Court of Justice judgments operate almost like an invisible hand, shaping the analytical orientation of future cases. The Court's interpretations of treaty provisions, historical documents, or questions of entitlement may subsequently be repeatedly invoked in later disputes and regional controversies, thereby indirectly constraining the positions of non-party states. Under such circumstances, "reasoning-related interests" emerge as a distinct category of legal interest. This recognition possesses particularly strong practical significance for China. China's international legal strategy is currently undergoing a transition from a defensive posture toward one of constructive participation, and the intervention regime provides an important procedural instrument for this transformation. As China's legal engagement in areas such as the law of the sea, energy security, and transboundary environmental protection continues to deepen, interpretations adopted by the International Court of Justice concerning comparable treaty provisions

may significantly affect China's future legal practice. In disputes concerning the South China Sea, for example, judicial interpretations of concepts such as "historic rights" and "effective control" may, if consolidated into a particular jurisprudential orientation, place indirect pressure upon the scope of China's legal claims. Consequently, understanding and responding to the Court's review logic concerning "reasoning-related interests" is not merely an abstract jurisprudential issue; rather, it directly concerns how a state preserves its interpretative authority and discursive influence within the international judicial system.

The judicial reasoning reflected in this case also suggests that China should further improve its mechanisms for responding to and monitoring international litigation. Although intervention proceedings may not directly alter the outcome of a case, they can nonetheless establish an institutional presence within the interpretative process itself. Proceedings before the International Court of Justice are not merely forums for dispute settlement; they are also processes through which norms of international law are gradually confirmed and concretized [18]. If China were to establish cross-departmental coordination and analytical mechanisms for international judicial information, maintain sustained observation of cases implicating national interests, and, where appropriate, submit legal views as a third party while anticipating the possible direction of the Court's reasoning, it could participate in the formation of international legal rules through procedural means. From a theoretical perspective, the Philippines case also encourages Chinese scholarship to reconsider the prevailing direction of research concerning "an interest of a legal nature." Domestic discussions of Article 62 have long remained focused upon substantive interests, while insufficient attention has been devoted to interpretative or reasoning-related interests. To some extent, this gap has contributed to an incomplete understanding of the institutional logic underlying the International Court of Justice. In reality, however, the core issue in international adjudication is often not simply the establishment of rights, but the allocation of interpretative authority [24]. A deeper theoretical exploration of reasoning-related interests would therefore broaden Chinese scholarship's understanding of the functions of international adjudication and provide more comprehensive jurisprudential resources for state practice.

## 5.2. Practical and structural challenges

The review logic demonstrated in the Philippines case likewise highlights the multiple challenges China may encounter in any future use of the intervention mechanism. First, the Court's stringent requirements regarding evidentiary standards and legal identifiability are particularly significant. The Philippines case illustrates that where an applicant state cannot clearly explain how the Court's reasoning would alter the legal foundation of its rights, the intervention claim is highly likely to be deemed insufficient to constitute "an interest of a legal nature." Should China seek to submit a comparable application for intervention in the future, it would therefore need to provide highly precise legal analysis and a coherent factual chain capable of satisfying the Court's expectation of a "specific legal connection." This, in turn, requires the state to possess sophisticated international legal expertise and a systematic case-evaluation mechanism—areas in which China's institutional capacity is still in the process of development.

The "considerations of propriety" reflected in the Court's jurisprudence likewise impose constraints upon China's strategies for judicial participation. The Court tends to avoid generating new disputes among non-party states and therefore adopts a restrained approach toward intervention applications. From China's perspective, such restraint demonstrates both the scarcity of procedural opportunities and the need for more strategic methods of participation. Without necessarily seeking formal intervention, China might instead employ mechanisms such as *amicus curiae* briefs or third-state declarations in order to articulate its legal views on issues affecting national interests. In this way, it may achieve a form of "light intervention" within the existing institutional framework.

Moreover, the relationship between the theoretical value of the intervention regime and China's sovereignty position requires especially careful balancing. China has consistently emphasized that the jurisdiction of the International Court of Justice must rest upon state consent, whereas an excessive expansion of intervention procedures may to some extent blur that boundary [25]. Accordingly, a key practical question concerns how to make appropriate use of procedural participation without undermining the principle of sovereignty. Third-party participation does not necessarily weaken sovereignty; on the contrary, it may provide states with an institutionalized avenue through which to express concerns within the international legal order. If this understanding of the regime can be absorbed and internalized domestically, it may contribute to the formation of a more stable and mature Chinese strategy toward international adjudication.

Beyond institutional challenges, adequate academic and conceptual preparation is equally essential. Chinese scholarship on the procedural law of the International Court of Justice has thus far remained largely result-oriented, with comparatively insufficient attention devoted to judicial interpretation, procedural roles, and judicial discretion. The review logic in the Philippines case reminds us that what ultimately determines the development of the intervention regime is not the operative outcome of judgments, but rather how the Court interprets the meaning of "being affected." The dynamic interpretation of this concept will shape whether states may in the future enter proceedings on the basis of "reasoning-related interests." Strengthening systematic research into the interpretative methods of the International Court of Justice is therefore not merely an academic undertaking, but also a matter of national legal strategy.

The judicial trajectory of the Philippines case reveals two simultaneous realities for China. On the one hand, the International Court of Justice has, through procedural self-restraint, established a high threshold for intervention in order to preserve the stability of the litigation structure. On the other hand, the Court's limited recognition of interpretative interests has opened a new procedural space through which states may participate in the development of legal interpretation. How China balances these two dimensions will determine whether it can both maintain its sovereignty position and effectively articulate its legal interests within the international judicial system. In this sense, the Philippines case is not merely a dispute concerning island sovereignty. It also serves as a mirror of institutional self-reflection through which China may reassess its own role and strategic positioning within the contemporary international legal order.

## 6. Conclusion

As a representative case concerning the International Court of Justice's identification of "an interest of a legal nature," the Philippines intervention case clearly illustrates the judicial logic underlying the dual categorization of interests: those "directly related to the subject matter of the dispute" and those "related to the legal reasoning underlying the dispute." Since the establishment of Article 62 of the *Statute of the International Court of Justice*, the concept of "an interest of a legal nature" has remained one of the most open-ended institutional formulations within international judicial procedure. The Philippines case once again placed the interpretation of this provision at the intersection of theory and practice. While adhering to principles of procedural restraint and judicial propriety, the Court was also required to confront the practical challenges posed by reasoning-related interests. The International Court of Justice did not deny the existence of such interests. Rather, by imposing heightened evidentiary requirements and narrowly defining the scope of legal identifiability, it sought to preserve the institutional stability of the intervention regime. This approach reflects the enduring tension within international adjudication between interpretative openness and institutional constraint. From a broader perspective, the fundamental significance of reasoning-related interests within the framework of international law lies in their transcendence of the traditional binary structure of

rights and obligations. They extend state legal interests into the sphere of judicial interpretation itself, thereby transforming "the interpretative process" into a constituent element of the international legal order [26]. This development reflects the expanding function of international adjudication: international courts are not merely resolving disputes, but are also shaping the structure of the legal system itself.

In conclusion, the study of reasoning-related interests demonstrates the openness of the intervention regime before the International Court of Justice and provides a new perspective for understanding the developmental logic of contemporary international law. International law is not a static system of rules, but an order continuously reconstructed through interpretation and practice [25]. In this sense, Article 62 of the *Statute of the International Court of Justice* is not merely a procedural provision; it symbolizes a generative mechanism of law itself. It embodies the contemporary challenge of how states may reconstruct a balance between legal rules and interpretative discourse. For any state committed to the development of the international legal order, this represents both an opportunity and a measure of its legal and institutional maturity.

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