

IN THE INTERNATIONAL COURT OF JUSTICE

MALAYSIA, )  
APPLICANT )  
V. )  
SINGAPORE, )  
RESPONDENT )

MEMORIAL OF THE REPUBLIC OF SINGAPORE

COMES NOW the Republic of Singapore and for their Memorial to the Court states the following:

STATEMENT OF LAW

1. Singapore was lawfully acquired by the British under the Anglo-Dutch Treaty of 1824 and was administered by the British East India Company. Ownership and administration responsibilities over Singapore were transferred from the East India Company to the British Crown in 1867. On 3 June 1959 Singapore gained political independence from the Crown, which was then later extended to full independence on 16 September 1963.

2. On 1 September 1962, Singapore held the Merger Referendum of Singapore to decide the future of Singapore. The referendum passed overwhelmingly under the condition that all Singaporean citizens would become Malaysian citizens and that Singapore would also retain a degree of state autonomy and privileges. In 16 September 1963 leaders of Malaya and Singapore signed the Malaysia Agreement, giving Singapore independent status within the Federation of Malaysia.

3. On 9 August 1965, an independence treaty was signed between the Federation of Malaysia and Singapore, establishing the boundaries, rights, obligations and territories of the newly created Republic of Singapore. No reference was made to the islands of Pedra Branca, Middle Rocks or South Ledge.

4. International General Principles recognize a basic statute of limitations on action to claim or reclaim disputed territories.

5. International Law recognizes three methods of lawfully acquiring territory: discovery, occupation and conquest.

#### STATEMENT OF FACT:

Singapore was a British crown colony from 1826 to 1963. In addition to this, Malaysia and the disputed rock islands of Pedra Branca, Middle Rocks and South Ledge, located east of the Strait of Singapore, were also under British rule. In 1851, the British built the Horsburgh lighthouse on Pedra Branca to help ships navigate safely in the surrounding waters. After the completion of the lighthouse in 1851, the British gave Singapore the sole responsibility of administering the lighthouse. Accordingly, for a period of 112 years, Singapore served their assigned role as administrator of this territory. After Singapore gained independence from the British colonial government in 1963, Singapore agreed to merge as an independent state within the Federation of Malaysia. This union lasted until 1965, when the two countries separated once again. Even during the unification and separation processes between Malaysia and Singapore, Singapore continued to administer and manage the islands. The administration, jurisdiction and control over the islands and the lighthouse were never disputed by the Malaysian authorities during this period. However in 1979, Malaysia claimed Pedra Branca on its territorial maps, even though Malaysian maps as late as 1974 showed Pedra Branca as Singaporean territory.

Malaysia's claim to the islands was made fourteen years post separation, and more than 128 years after British allocation of the islands to Singapore. Singapore immediately responded to this incident by asserting that it has administered and occupied the islands for more than a century without any prior objections or official claims made by Malaysia.

## STATEMENT OF JURISDICTION

As per the agreement signed with the Federation of Malaysia, the Republic of Singapore willingly accepts the jurisdiction of the Court regarding the issue of sovereignty over Pedra Branca, Middle Rocks and South Ledge.

## ARGUMENTS

I. The Federation of Malaysia can not legitimately claim a right of ownership over the territory of Pedra Branca, Middle Rocks or South Ledge.

The sovereign states of Malaysia and Singapore were under British authority for more than a century. This authority extended to include the islands of Pedra Branca, Middle Rocks and South Ledge. During the British rule over the states, the administrative responsibilities over the islands were designated, by the British, to only Singapore. Malaysia never protested this decision by the British. Furthermore, after independence, Singapore continued to administer the islands, again with no objections from Malaysia. During unification, and the subsequent separation, Singapore retained control over the island with no objections from Malaysia. This undisputed administrative authority over the islands for more than a century is just cause for assumed ownership of the islands. As per international law, uncontested occupation of the island

defines ownership of the islands. Furthermore, Singapore's administration over the islands from 1851 to 1979 has forged a direct relationship between the mainland and the disputed islands. In contrast, Malaysia historically has never attempted to develop a relationship with the islands until 1979.

II. The Federation of Malaysia failed to claim Pedra Branca, Middle Rocks and South Ledge until 1979, forfeiting their right to claim ownership, as per the general principle of reasonable statute of limitations regarding territorial disputes.

It has already been noted that for over one hundred years Pedra Branca, Middle Rocks and South Ledge were administrated by Singapore. Over the course of this same time period, there were no claims made by Malaysia regarding the islands possession. The administrative and management role assumed by Singapore in 1963, after independence from the British, was not contested either. The authority over the islands assumed by Singapore during unification also was never contested. And finally, during and after the separation of the two states, Malaysia still did not make any claims or objections to the islands being under Singapore's jurisdiction. The first objection, and subsequent claim to the islands, was submitted only in 1979, fourteen years after separation and more than 128 years after initial authority was given to Singapore by the British. The lack of action to claim the land or to declare a formal position by the Federation of Malaysia adds to the legitimacy of Singapore's claim over the islands.

III. The Federation of Malaysia has shown inconsistency in both their official statements and territorial maps regarding Pedra Branca, Middle Rocks and South Ledge.

Malaysia has two critical factors that play against their own claims to the islands. The first is the fact that domestically produced maps of Malaysia, as late as 1974, do not indicate the islands of Pedra Branca, Middle Rocks and South Ledge as a part of the Federation. In fact, these same maps show the islands as territories of Singapore. This highlights that Malaysia had to overlook their earlier published maps to assert their claim over the islands in 1979. The second factor is the contradictory statements made in 1953 by the acting Malaysian Secretary of State of the State of Johor, in which he explicitly stated that Malaysia did not lay claim to the islands of Pedra Branca, Middle Rocks or South Ledge.

#### SUMMARY AND PRAYER FOR RELIEF

The Federation of Malaysia has no standing in the Court regarding the islands of Pedra Branca, Middle Rocks and the South Ledge. The most recent contractual ownership of the islands dates back to the British via the Anglo-Dutch Treaty of 1824. Although no legal treaty formally exists claiming this territory to be under Singapore's jurisdiction, the status quo has been Singapore's administration of the islands for an undisputable time period of over a hundred years, as dictated by the British colonial government. Therefore, when the British designated Singapore as the sole administrator of the island, they did so with full jurisdiction over the islands. When the British left the region, the islands remained in the hands of Singapore, without objection from Malaysia. This assumed ownership was not questioned by Malaysia under unification and again after separation. This gives rise to the claim of official legal ownership due to the fact that islands were in the sole uncontested possession of Singapore for more than a century.

Singapore argues that the time for contestation over the islands has expired and that Malaysia has had four opportunities to challenge Singapore's authority over the islands, but chose not to. The four opportunities for objection, as seen by Singapore, are defined as the initial designation of the islands by the British to Singapore, the decolonization by the region by the British, the unification treaty and finally the separation treaty of the two states. Malaysia did not attempt to make any claims to the islands at any of these critical junctions and thus have forfeited their right to claim the island today in front of the Court. Coupled with this, from 1979 until 2003, Malaysia has made no serious attempt to pursue the signing and ratification of the Special Agreements for the ICJ until this same court ruled in favor of Malaysia's case against Indonesia over the islands of Sipidan and Ligitan. Singapore prays that the Court will recognize its previously undisputed administration of Pedra Branca, Middle Rocks and South Ledge and thus, in accordance with international law, will grant Singapore full sovereignty over this territory.