



INTERNATIONAL COURT OF JUSTICE

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Press Release

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Sovereignty over Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge (Malaysia/Singapore)

The Court finds that Singapore has sovereignty over Pedra Branca/Pulau Batu Puteh; that Malaysia has sovereignty over Middle Rocks; and that sovereignty over South Ledge belongs to the State in the territorial waters of which it is located

THE HAGUE, 23 May 2008. The International Court of Justice (ICJ), principal judicial organ of the United Nations, today rendered its Judgment in the case concerning Sovereignty over Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge (Malaysia/Singapore).

In its Judgment, which is final, binding and without appeal, the Court

- finds by twelve votes to four that sovereignty over Pedra Branca/Pulau Batu Puteh belongs to the Republic of Singapore;
- finds by fifteen votes to one that sovereignty over Middle Rocks belongs to Malaysia;
- finds by fifteen votes to one that sovereignty over South Ledge belongs to the State in the territorial waters of which it is located.

Reasoning of the Court

The Court first explains that the dispute between Malaysia and Singapore concerns sovereignty over three maritime features in the Straits of Singapore: Pedra Branca/Pulau Batu Puteh (a granite island on which Horsburgh lighthouse stands), Middle Rocks (consisting of some rocks that are permanently above water) and South Ledge (a low-tide elevation).

Having described the historical background of the case, the Court notes that the dispute as to sovereignty over Pedra Branca/Pulau Batu Puteh crystallized on 14 February 1980, when Singapore protested against the publication in 1979 by Malaysia of a map depicting the island as lying within Malaysia's territorial waters. It further observes that the dispute as to sovereignty over Middle Rocks and South Ledge crystallized on 6 February 1993, when Singapore referred to the two features in the context of its claim to Pedra Branca/Pulau Batu Puteh during bilateral negotiations.

- Sovereignty over Pedra Branca/Pulau Batu Puteh

Malaysia contends that it has an original title to Pedra Branca/Pulau Batu Puteh (dating back from the time of its predecessor, the Sultanate of Johor) and that it continues to hold this title, while Singapore claims that the island was terra nullius in the mid-1800s when the United Kingdom (its predecessor) took lawful possession of the island in order to construct a lighthouse.

Having reviewed the evidence submitted by the Parties, the Court finds that the territorial domain of the Sultanate of Johor did cover in principle all the islands and islets within the Straits of Singapore and did thus include Pedra Branca/Pulau Batu Puteh. It establishes that this possession of the islands by the Sultanate was never challenged by any other Power in the region; and that it therefore satisfies the condition of “continuous and peaceful display of territorial sovereignty”. The Court thus concludes that the Sultanate of Johor had original title to Pedra Branca/Pulau Batu Puteh. It adds that this ancient title is confirmed by the nature and degree of the Sultan of Johor’s authority exercised over the Orang Laut (“the people of the sea”, who inhabited or visited the islands in the Straits of Singapore, including Pedra Branca/Pulau Batu Puteh and made this maritime area their habitat).

The Court then looks at whether this title was affected by developments in the period between 1824 and the 1840s. In March 1824, the colonial Powers in the region, the United Kingdom and the Netherlands, signed a Treaty which had the practical effect of broadly establishing the spheres of influence of the two Powers in the East Indies. As a consequence, one part of the Sultanate of Johor (under Sultan Hussein) fell within the British sphere of influence while the other (under Sultan Abdul Rahman, Sultan Hussein’s brother) fell within a Dutch sphere of influence. In August 1824, Sultan Hussein ceded the island of Singapore, together with its adjacent seas, straits, and islets to the extent of 10 geographical miles from the coast of Singapore to the English East India Company in the so-called Crawfurd Treaty. Finally, in a letter of 25 June 1825, Sultan Abdul Rahman “donated” certain territories, which were already within the British sphere of influence, to his brother, thereby confirming the division of the “old” Sultanate of Johor. After careful consideration of the legal effects of these developments, the Court finds that none of them brought any change to the original title.

The Court turns next to the legal status of Pedra Branca/Pulau Batu Puteh after the 1840s to determine whether Malaysia and its predecessor retained sovereignty over the island. It observes that in order to do so, it needs to assess the relevant facts, consisting mainly of the conduct of the Parties (and of their predecessors) during the period under review.

The Court examines the events surrounding the selection process of the site of the lighthouse and the construction of the latter, as well as the conduct of the Parties’ predecessors between 1852 and 1952 (in particular with respect to the British and Singapore legislation relating to Horsburgh lighthouse and in the context of the Straits lights system; constitutional developments of Singapore and Malaysia; and Johor regulation of fisheries in the 1860s), but is unable to draw any conclusions for the purposes of the case.

The Court notes that in a letter written on 12 June 1953 to the British Adviser to the Sultan of Johor, the Colonial Secretary of Singapore asked for information about the status of Pedra Branca/Pulau Batu Puteh in the context of determining the boundaries of the “Colony’s territorial waters”. In a letter dated 21 September 1953, the Acting State Secretary of Johor replied that the “Johore Government [did] not claim ownership” of the island. The Court considers that this correspondence and its interpretation are of central importance “for determining the developing understanding of the two Parties about sovereignty over Pedra Branca/Pulau Batu Puteh” and finds that the Johor’s reply shows that as of 1953 Johor understood that it did not have sovereignty over Pedra Branca/Pulau Batu Puteh.

The Court finally examines the conduct of the Parties after 1953 with respect to the island. Having reviewed all arguments submitted to it, it finds that certain acts, *inter alia* the investigation of shipwrecks by Singapore within the island’s territorial waters and the permission granted or not granted by Singapore to Malaysian officials to survey the waters surrounding the island, may be seen as conduct *à titre de souverain*. The Court also considers that some weight can be given to the conduct of the Parties in support of Singapore’s claim (i.e., the absence of reaction from Malaysia to the flying of the Singapore ensign on the island, the installation by Singapore of military

communications equipment on the island in 1977, and the proposed reclamation plans by Singapore to extend the island, as well as a few specific publications and maps).

The Court concludes, especially by reference to the conduct of Singapore and its predecessors à titre de souverain, taken together with the conduct of Malaysia and its predecessors including their failure to respond to the conduct of Singapore and its predecessors, that by 1980 (when the dispute crystallized) sovereignty over Pedra Branca/Pulau Batu Puteh had passed to Singapore. The Court thus concludes that sovereignty over Pedra Branca/Pulau Batu Puteh belongs to Singapore.

— Sovereignty over Middle Rocks and South Ledge

Malaysia claims that the two maritime features have always been under Johor/Malaysian sovereignty while Singapore's position is that sovereignty over the features goes together with sovereignty over Pedra Branca/Pulau Batu Puteh.

With respect to Middle Rocks, the Court observes that the particular circumstances which led it to find that sovereignty over Pedra Branca/Pulau Batu Puteh rests with Singapore clearly do not apply to Middle Rocks. It therefore finds that original title to Middle Rocks should remain with Malaysia as the successor to the Sultanate of Johor.

As for South Ledge, the Court notes that this low-tide elevation falls within the apparently overlapping territorial waters generated by Pedra Branca/Pulau Batu Puteh and by Middle Rocks. Recalling that it has not been mandated by the Parties to draw the line of delimitation with respect to their territorial waters in the area, the Court concludes that sovereignty over South Ledge belongs to the State in the territorial waters of which it is located.

Composition of the Court

The Court was composed as follows: Vice-President Al-Khasawneh, Acting President in the case; Judges Ranjeva, Shi, Koroma, Parra-Aranguren, Buergenthal, Owada, Simma, Tomka, Abraham, Keith, Sepúlveda-Amor, Bennouna, Skotnikov; Judges ad hoc Dugard, Sreenivasa Rao; Registrar Couvreur.

Judge Ranjeva appends a declaration to the Judgment of the Court; Judge Parra-Aranguren appends a separate opinion to the Judgment of the Court; Judges Simma and Abraham append a joint dissenting opinion to the Judgment of the Court; Judge Bennouna appends a declaration to the Judgment of the Court; Judge ad hoc Dugard appends a dissenting opinion to the Judgment of the Court; Judge ad hoc Sreenivasa Rao appends a separate opinion to the Judgment of the Court.

A summary of the Judgment appears in the document "Summary No. 2008/1", to which summaries of the declarations and opinions are annexed. In addition, this press release, the summary and the full text of the Judgment can be found on the Court's website (www.icj-cij.org) under "Press Room" and "Cases".

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