

INTERNATIONAL COURT OF JUSTICE

**REQUEST FOR INTERPRETATION OF THE JUDGMENT OF 23 MAY 2008 IN THE CASE
CONCERNING *SOVEREIGNTY OVER PEDRA BRANCA/PULAU BATU PUTEH, MIDDLE
ROCKS AND SOUTH LEDGE (MALAYSIA/SINGAPORE) (MALAYSIA V. SINGAPORE)***

**WRITTEN OBSERVATIONS OF
THE REPUBLIC OF SINGAPORE**

30 OCTOBER 2017

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WRITTEN OBSERVATIONS OF THE REPUBLIC OF SINGAPORE

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Insert 1A	Maritime chart published by Malaysia’s Chief of Navy on Twitter on 21 August 2017	<i>after</i> page 34
Insert 1B	Maritime chart published by Malaysia’s Chief of Navy on Twitter on 21 August 2017, with Singapore’s further annotations (in the blue text boxes), including translations of relevant words from the Malay language to the English language, for reference	<i>before</i> page 35

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WRITTEN OBSERVATIONS OF THE REPUBLIC OF SINGAPORE

CHAPTER I

INTRODUCTION

- 1.1 On 30 June 2017, Malaysia filed its request for interpretation (“**the Request for Interpretation**”¹) of the Judgment delivered by the Court on 23 May 2008 in the Case concerning *Sovereignty over Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge (Malaysia/Singapore)* (“**the Judgment**”)².
- 1.2 By a letter dated 10 July 2017, the Registrar informed the Parties that, pursuant to Article 98, paragraph 3, of the Rules of Court, the time-limit for the filing of Singapore’s written observations on the Request for Interpretation had been fixed at 30 October 2017.
- 1.3 These Written Observations are submitted in accordance with Article 98, paragraph 3, of the Rules of Court and the time-limit fixed by the Court.

¹ In these Written Observations, Singapore will, in accordance with the terminology applied by the Court, refer to the request for interpretation of the Judgment of 23 May 2008 filed by Malaysia on 30 June 2017 as “**the Request for Interpretation**”; and to the application for revision of the Judgment of 23 May 2008 filed by Malaysia on 2 February 2017 as “**the Application for Revision**”.

² *Sovereignty over Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge (Malaysia/Singapore)*, Judgment, I.C.J. Reports 2008, p. 12. In accordance with the terminology applied in the jurisprudence of this Court in previous revision cases, the Case concerning *Sovereignty over Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge (Malaysia/Singapore)* is referred to hereafter as “**the original case**”.

A. Malaysia's Request for Interpretation of the Judgment

1.4 In the Request for Interpretation, Malaysia alleges that the Parties have been unable to agree over “the meaning of the 2008 Judgment as it concerns South Ledge and the waters surrounding Pedra Branca/Pulau Batu Puteh”³, and in particular over “the meaning and/or scope of the following two points of the 2008 Judgment:

- (1) the Court's finding that ‘sovereignty over Pedra Branca/Pulau Batu Puteh belongs to Singapore’, and
- (2) the Court's finding that ‘sovereignty over South Ledge belongs to the State in the territorial waters of which it is located’.”⁴

1.5 The Request for Interpretation is a second attempt by Malaysia to appeal the Judgment, following Malaysia's earlier application for revision of the Judgment under Article 61 of the Statute of the Court (“**the Application for Revision**”). In the Request for Interpretation, Malaysia seeks a decision of the Court on issues that were not the subject of the proceedings in the original case and, for that reason, were not decided by the Court.

1.6 Article 2 of the Special Agreement of 6 February 2003 (“**the Special Agreement**”) determined the scope of the Court's jurisdiction and task. The Parties requested the Court:

“ ... to determine whether sovereignty over:

- (a) Pedra Branca/Pulau Batu Puteh;
- (b) Middle Rocks;

³ Request for Interpretation, para. 4.

⁴ *Ibid.*, para. 5.

(c) South Ledge,

belongs to Malaysia or the Republic of Singapore.”⁵

1.7 In the Judgment, the Court found that:

- (a) sovereignty over Pedra Branca belongs to Singapore;
- (b) sovereignty over Middle Rocks belongs to Malaysia;
- (c) sovereignty over South Ledge belongs to the State in the territorial waters of which it is located⁶.

The Court’s holdings in its operative clause are perfectly clear and require no interpretation.

1.8 The Court did what it was mandated by the Parties to do – rule on the issue of sovereignty over the features in question; and the Court did not do what it was not mandated by the Parties to do – which was to delimit the maritime entitlements of the Parties generated by Pedra Branca and Middle Rocks.

1.9 Malaysia now requests the Court to go beyond the mandate conferred on it by the Special Agreement. It requests the Court to declare that:

“(a) ‘The waters surrounding Pedra Branca/Pulau Batu Puteh remain within the territorial waters of Malaysia;’ and

(b) ‘South Ledge is located in the territorial waters of Malaysia, and consequently sovereignty over South Ledge belongs to Malaysia’.”⁷

⁵ Judgment, p. 18, para. 2.

⁶ *Ibid.*, p. 101-102, para. 300.

⁷ Request for Interpretation, para. 56.

- 1.10 Malaysia also claims that “[t]he necessity of this request is made clear by the fact that incidents taking place in the waters and airspace surrounding Pedra Branca/Pulau Batu Puteh and South Ledge continue to provoke objections from the Parties.”⁸ Singapore will show that to the extent that there were any “incidents” in the area around Pedra Branca, Middle Rocks and South Ledge, these concerned the issue of the extent of maritime entitlements of each Party, and not the meaning or scope of the Judgment, which dealt only with sovereignty.
- 1.11 Malaysia has purported to set out a “Statement of the Facts” in the Request for Interpretation⁹ in a bid to persuade the Court that the Parties are deadlocked over the meaning or scope of the Judgment, and that Malaysia is compelled to bring the Request for Interpretation because there is no reasonable prospect of progress being made through further bilateral discussions between the Parties. In an attempt to justify the Request for Interpretation, Malaysia relies, in particular, on an alleged impasse in the discussions between Singapore and Malaysia concerning the implementation of the Judgment within the Malaysia-Singapore Joint Technical Committee on the Implementation of the International Court of Justice Judgment on Pedra Branca, Middle Rocks and South Ledge (“the MSJTC”)¹⁰.
- 1.12 Malaysia’s assertions are misleading and not borne out by the facts. A proper examination of all the facts, including the MSJTC discussions, reveals that there is no dispute between the Parties over the meaning or scope of the Judgment as alleged by Malaysia. Although there might have been differences between the Parties over issues relating to the activities

⁸ Request for Interpretation, para. 55.

⁹ *Ibid.*, paras. 8-20.

¹⁰ The facts relating to the MSJTC will be covered in greater detail in Section B of this Chapter.

of each Party in the waters surrounding, and the airspace above the area around, Pedra Branca, Middle Rocks and South Ledge, these were differences over the *extent* of each Party's maritime and airspace entitlements, and over the steps to be taken pending the completion of delimitation. They were not a dispute over the *meaning and scope* of the Judgment, which dealt only with sovereignty.

- 1.13 In these Written Observations, Singapore will demonstrate that the Court has no jurisdiction over the Request for Interpretation and that the Request for Interpretation is inadmissible. The Judgment is entirely clear and no interpretation is required.

B. The Malaysia-Singapore Joint Technical Committee

- 1.14 The MSJTC was established on 3 June 2008 at the first bilateral meeting between senior officials from both Governments after the delivery of the Judgment to discuss issues “related to the smooth implementation of the International Court of Justice (ICJ) Judgment on the case concerning sovereignty over Pedra Branca, Middle Rocks and South Ledge”¹¹. Its work was based on the Parties' common understanding of the Court's rulings. Both Parties accepted that the Court's rulings on sovereignty over Pedra Branca and Middle Rocks meant that the next step for the Parties was to focus on the extent of each sides' maritime and airspace entitlements. The Parties were also in agreement that the issue of sovereignty over South Ledge, as decided in the Judgment, depends on the delimitation of the Parties' respective maritime entitlements. The

¹¹ *Meeting between Malaysia and the Republic of Singapore on the Implementation of the International Court of Justice Judgment on Pedra Branca, Middle Rocks and South Ledge, 3 June 2008, Singapore, Record of Meeting*, attached as **Annex 18 to these Written Observations, p. A117**, para. 3. For ease of reference, the Annexes to these Written Observations have been presented in chronological order.

existence and work of the MSJTC are therefore entirely inconsistent with Malaysia's contention that the Parties are in "deadlock" over the meaning or scope of the Judgment.

- 1.15 In remarks carried in the media after the delivery of the Judgment, Malaysia's Foreign Minister at the time, Dr Rais Yatim, stated:

"It is a victory for Singapore and it is a winning episode for Malaysia for having obtained the Middle Rocks. We are also pleased that the judgment which states that the territorial waters within which South Ledge is situated, will be, to be in favour of the state that has the territorial waters. We will work this out with the technical committee and as George [*i.e.*, George Yeo, Singapore's Foreign Minister] has stated, the technical committee is already in swing and in operation, virtually to be in session within 2 weeks from today."¹²

- 1.16 Dr Rais Yatim also made these points on a Malaysian television current affairs programme on 28 May 2008¹³. In response to questions about how the Judgment would be implemented, Dr Rais Yatim said that the Committee would need to work out a number of issues, one of which was:

"... to determine the territorial waters where Singapore and Malaysia already have claims ... the issue of territorial waters can only be determined when the experts of law of the sea give their advice."¹⁴

¹² Transcript of doorstep interview with Singapore's Foreign Minister, George Yeo and Malaysia's Foreign Minister, Dr Rais Yatim on 25 May 2008 at Yangon, attached as **Annex 10 to these Written Observations**.

¹³ This was a television programme conducted in the Malay language titled, "Rancangan Bersemuka Dengan Media: Isu Semasa & Polisi Luar Negara" (translated into English as "Face To Face with the Media: Current Issues and Foreign Policy"), which was broadcast by Radio Television Malaysia. A transcript of the television programme, with an English translation provided by Singapore, as well as a screen capture of the webpage containing links to the video files on the official website of Malaysia's Ministry of Foreign Affairs, are collectively attached as **Annex 16 to these Written Observations**.

¹⁴ **Annex 16 to these Written Observations, p. A75.**

He added that:

“... because Pulau Batu Puteh had existed for such a long time under British rule, thus the waters around it have not been determined yet. Therefore, after [the work of the committee] the territorial waters of Batu Puteh will be determined, similarly also [the waters of] Middle Rocks and also South Ledge – whether it overlaps with the waters of Middle Rocks or not, will be determined.”¹⁵

- 1.17 Malaysia’s then Prime Minister Abdullah Badawi also commented on the day after the Judgment was delivered that the next step was “for officials from both sides to meet to decide on the maritime demarcation line as soon as possible”¹⁶.
- 1.18 Malaysia has attached a document as Annex 1 to the Request for Interpretation which it claims sets out the terms of reference of the MSJTC. There is in fact no such document. The agreed mandate and scope of the MSJTC was set out in the Record of Meeting for the First MSJTC Meeting¹⁷, which was finalised long before 13 August 2008, the apparent date of Malaysia’s document. The document appears instead to be an internal document prepared by Malaysia labelled “draft”, which was

¹⁵ **Annex 16 to these Written Observations, p. A75.**

¹⁶ Report dated 24 May 2008 by *The Star*, “A sad Abdullah accepts ICJ ruling”, attached as **Annex 7 to these Written Observations**. Other public statements made by the Malaysian Government, and reported by the media, made similar points. See, for example, report dated 25 May 2008 by *The Star*, “Don’t go to Middle Rocks yet, police warn Malaysians”, attached as **Annex 12 to these Written Observations**; and report dated 26 May 2008 by *New Straits Times*, “Call for joint maritime patrols”, attached as **Annex 14 to these Written Observations**.

¹⁷ *Meeting between Malaysia and the Republic of Singapore on the Implementation of the International Court of Justice Judgment on Pedra Branca, Middle Rocks and South Ledge, 3 June 2008, Singapore, Record of Meeting*, attached as **Annex 18 to these Written Observations, p. A117**, para. 3.

never tabled. But its provenance aside, the document confirms that the Malaysian Government was, from the outset, *ad idem* with Singapore that the MSJTC work included discussing “all preparatory issues leading to bilateral maritime boundary negotiations”¹⁸.

1.19 After its establishment, a great deal of activity at the MSJTC and its sub-committees ensued from 2008 to 2013. The MSJTC held seven meetings and its sub-committees held a total of 17 meetings¹⁹. The MSJTC Meetings involved delegations from both Parties led by senior officials in both Parties’ Foreign Ministries. All the discussions between the Parties at the meetings of the MSJTC and its sub-committees were predicated on the common position that the Judgment had made clear in the operative clause that sovereignty over Pedra Branca belongs to Singapore, sovereignty over Middle Rocks belongs to Malaysia, and sovereignty over South Ledge “belongs to the State in the territorial waters of which it is located”. The Parties proceeded on the basis that, as a consequence of the Judgment, they had maritime entitlements generated by Pedra Branca and Middle Rocks, and that sovereignty over South Ledge flows from maritime boundary delimitation. The function of the MSJTC was to work out how the Parties could move forward in the light of this common position. This had never once been disputed by Malaysia throughout the course of any of the meetings of the MSJTC or its sub-committees.

1.20 Each of the three main tasks of the MSJTC and its sub-committees supports Singapore’s case that there is no dispute between the Parties over the meaning or scope of the Judgment.

¹⁸ Request for Interpretation, Annex 1.

¹⁹ A chronological listing of the meetings of the MSJTC and its sub-committees is set out in a table within **Appendix 1 to these Written Observations**.

1.21 The first task was to conduct a joint survey in order to obtain hydrographic data of the low-water line of both Pedra Branca and Middle Rocks, and of any low-tide elevations in the designated survey area²⁰. Significantly, it was Malaysia which had proposed the joint survey. In his opening remarks at the Second Sub-Committee Meeting on the Joint Survey Works in and around Pedra Branca, Middle Rocks and South Ledge held on 19-20 August 2008²¹, Malaysia’s co-chairman for the Sub-Committee said:

“As both sides are aware, the technical sub-committee was tasked to oversee the conduct of the Joint Survey Works in and around Pedra Branca and Middle Rocks in preparation for eventual talks on maritime issues in and around the said three (3) features.”²²

²⁰ *General Scope of Works for the Joint Hydrographic Survey in and around Pedra Branca and Middle Rocks*, Annex to the *Memorandum of Understanding between the Government of Malaysia and the Government of the Republic of Singapore with regard to the Joint Hydrographic Survey in and around Pedra Branca and Middle Rocks*, attached as **Annex 66 to these Written Observations**, p. **A1052**, para. 1.

²¹ The Sub-Committee on the Joint Survey Works in and around Pedra Branca, Middle Rocks and South Ledge (“**the Joint Survey Works Sub-Committee**”) was set up during the First MSJTC Meeting. The Joint Survey Works Sub-Committee met a total of 14 times, and was eventually dissolved following the Sixth MSJTC Meeting held on 22-23 February 2012, after both sides agreed that it had successfully completed its work.

²² *Second Joint Technical Committee Meeting between Malaysia and Singapore on the Implementation of the International Court of Justice (ICJ) Judgment on Pedra Branca, Middle Rocks and South Ledge, Putrajaya, 20 August 2008*, *Record of Meeting*, attached as **Annex 21 to these Written Observations**, p. **A158**, Appendix D3. See also *Meeting between Malaysia and the Republic of Singapore on the Implementation of the International Court of Justice Judgment on Pedra Branca, Middle Rocks and South Ledge, 3 June 2008, Singapore*, *Record of Meeting*, attached as **Annex 17 to these Written Observations**, p. **A117**, para. 4(iii), and p. **A127**, Appendix, para. 3.

- 1.22 The joint survey was successfully completed by May 2011, after which both Parties agreed to commence maritime boundary delimitation talks²³. The conduct of the joint survey in order to prepare for delimitation talks demonstrates that the Parties accepted that they had overlapping maritime and airspace entitlements generated by Pedra Branca and Middle Rocks and delimitation was therefore needed.
- 1.23 The second key task of the MSJTC was to discuss the management of the waters and airspace around Pedra Branca, Middle Rocks and South Ledge²⁴. Among the outcomes of these discussions were (a) an agreement that current traditional fishing activities by the fishermen of both countries would be allowed to continue in waters beyond 0.5 nautical miles around Pedra Branca, Middle Rocks and South Ledge and that both Parties would “advise their respective fishermen not to encroach into these 0.5 nautical miles [*sic*] zones”²⁵; and (b) an agreement on the approach for rendering of assistance in the event of an incident at sea²⁶.

²³ See para. 1.25 below.

²⁴ A “Sub-Committee on Maritime & Airspace Management and Fisheries” was established under the MSJTC to “discuss the airspace and maritime management and fisheries issue [*sic*] related to the International Court of Justice (ICJ) Judgment on the case concerning sovereignty over Pedra Branca, Middle Rocks and South Ledge”. See *Second Joint Technical Committee Meeting between Malaysia and Singapore on the Implementation of the International Court of Justice (ICJ) Judgment on Pedra Branca, Middle Rocks and South Ledge, Putrajaya, 20 August 2008, Record of Meeting*, attached as **Annex 21 to these Written Observations**, p. A142, para. 7, and p. A197, Annex E, para. 3. This Sub-Committee has met a total of three times thus far, from 2010 to 2012.

²⁵ *Second Joint Technical Committee Meeting between Malaysia and Singapore on the Implementation of the International Court of Justice (ICJ) Judgment on Pedra Branca, Middle Rocks and South Ledge, Putrajaya, 20 August 2008, Record of Meeting*, attached as **Annex 21 to these Written Observations**, p. A142, para. 4(iii), and p. A198, para. 3.3.

²⁶ See **Annex 18 to these Written Observations**, p. A118, para. 4(vi), and p. A129, Annex F, para. 1.

- 1.24 The Parties accepted that these discussions on airspace and maritime management, such as those concerning incidents at sea²⁷ and traditional fishing activities²⁸, were needed because of their overlapping claims to maritime and airspace entitlements pending delimitation. At these discussions, Malaysia again expressly “acknowledged that both sides need to delimit the maritime boundary in that area”²⁹.
- 1.25 The third task of the MSJTC was maritime boundary delimitation. After the Prime Ministers of both Parties agreed on 19 February 2013 that the MSJTC would begin work on delimitation³⁰, the Parties held discussions at the Seventh MSJTC Meeting on the creation of a new sub-committee on delimitation; appointments of the co-chairs of the sub-committee; the scope of its work; the sub-committee’s formal name; and other modalities of the delimitation talks³¹.
- 1.26 While agreement was not reached on some of these issues, this can hardly be said to amount to a lack of progress, especially as this was only the

²⁷ See **Annex 21 to these Written Observations**, p. **A197**, Annex E, para. 3.2(ii).

²⁸ *Ibid.*, p. **A198**, para. 3.3(i).

²⁹ *Fourth Meeting of the Malaysia-Singapore Joint Technical Committee on the Implementation of the International Court of Justice Judgment on Pedra Branca, Middle Rocks and South Ledge, Kuala Lumpur, 26-27 July 2010, Record of Meeting*, attached as **Annex 58 to these Written Observations**, p. **A883**, para. 10.

³⁰ *Joint Statement by Prime Minister Lee Hsien Loong and Prime Minister Dato’ Sri Mohd Najib Tun Abdul Razak at the Singapore-Malaysia Leaders’ Retreat in Singapore on 19 February 2013*, Request for Interpretation, Annex 3, para. 7.

³¹ See diplomatic note from Singapore to Malaysia, SHC 178/2013, dated 27 December 2013, attached as **Annex 88 to these Written Observations**, which enclosed Singapore’s draft Record of Meeting for the Seventh MSJTC Meeting, **pp. A1484-1488**, paras. 4-12; and diplomatic note from Malaysia to Singapore, EC 68/2014, dated 27 April 2014 (but received by Singapore on 27 March 2014), attached as **Annex 97 to these Written Observations**, which enclosed Malaysia’s draft Record of Meeting for the Seventh MSJTC Meeting, **pp. A1544-A1545**, paras. 4-6.

first time that the Parties had begun delimitation talks in earnest following the completion of the joint survey. In fact, both sides agreed to convene the next meeting of the MSJTC in 2014³². Moreover, the progress made at the Seventh MSJTC Meeting was noted by the Prime Ministers of both Parties at the 2014 Malaysia-Singapore Leaders' Retreat, who also welcomed the MSJTC's decision to establish a new maritime boundary delimitation sub-committee as a "positive step forward"³³.

- 1.27 Malaysia implies in the Request for Interpretation that it is Singapore's fault that the MSJTC has not met since November 2013. Malaysia alleges that "no further steps at all towards maritime boundary delimitation have been taken by the two sides" and that "[t]he last official communication between the two States on this topic of maritime boundary delimitation was a Diplomatic Note sent by [Malaysia to Singapore] dated 27 April 2014"³⁴. This is untrue. Singapore responded to Malaysia's 27 April 2014 diplomatic note on 7 May 2014, *i.e.* within two weeks³⁵. When no response was received from Malaysia after six months, Singapore sent a

³² The Record of Meeting for the Seventh MSJTC Meeting has not been finalised. However, what is common in each Party's proposed draft of the Record of Meeting is the fact that it was agreed that the Parties would meet again in 2014: *see* Singapore's draft Record of Meeting for the Seventh MSJTC Meeting, **Annex 88 to these Written Observations, p. A1493**, para. 26; and Malaysia's draft Record of Meeting for the Seventh MSJTC Meeting, **Annex 97 to these Written Observations, p. A1546**, para. 9.

³³ "Joint Statement by Prime Minister Dato' Sri Mohd Najib Tun Abdul Razak and Prime Minister Lee Hsien Loong at the Malaysia-Singapore Leaders' Retreat in Putrajaya, Malaysia on 7 April 2014", Request for Interpretation, Annex 5, para. 12. While Malaysia correctly describes this document in fn. 6 of the Request for Interpretation, it is erroneously cross-referenced to the 2016 Leaders' Retreat in para. 11 of the Request for Interpretation.

³⁴ Request for Interpretation, para. 11.

³⁵ Diplomatic note from Singapore to Malaysia, MFA/SEA1/00034/2014, dated 7 May 2014, attached as **Annex 99 to these Written Observations**.

further diplomatic note on 28 November 2014³⁶ in which it reminded Malaysia that the Parties had agreed to hold the next MSJTC Meeting in 2014, and requested that Malaysia provide details of the Eighth MSJTC Meeting. After waiting another year for a response from Malaysia, Singapore sent another diplomatic note to Malaysia on 16 December 2015³⁷, requesting a response from Malaysia on, *inter alia*, the dates for the Eighth MSJTC Meeting. Malaysia has not, to date, responded to *any* of these diplomatic notes.

- 1.28 Against this backdrop, there is no basis for Malaysia's insinuation that Singapore is responsible for the MSJTC not reconvening. Singapore has consistently demonstrated its willingness to continue with further discussions at the MSJTC. Malaysia's allegation that the Parties "remain deadlocked as to the true meaning of the Court's 2008 Judgment as it concerns South Ledge and the waters surrounding Pedra Branca/Pulau Batu Puteh"³⁸ mischaracterises the discussions at the Seventh MSJTC Meeting, and glosses over the fact that both sides agreed to a further meeting on delimitation and it is for Malaysia to propose suitable dates for that meeting. In fact, as Singapore will elaborate below³⁹, even Malaysia's recent 20 April 2017 diplomatic note⁴⁰, and Singapore's reply diplomatic note of 25 May 2017⁴¹, refer to further delimitation

³⁶ Diplomatic note from Singapore to Malaysia, MFA/SEA1/00091/2014, dated 28 November 2014, attached as **Annex 100 to these Written Observations**.

³⁷ Diplomatic note from Singapore to Malaysia, MFA/SEA1/00043/2015, dated 16 December 2015, attached as **Annex 102 to these Written Observations**.

³⁸ Request for Interpretation, para. 20.

³⁹ *See* para. 4.29 below.

⁴⁰ Request for Interpretation, Annex 63.

⁴¹ Diplomatic note from Singapore to Malaysia, MFA/SEA1/00022/2017, dated 25 May 2017, attached as **Annex 103 to these Written Observations**.

discussions between the Parties. Malaysia’s distortion of the facts is advanced solely to suggest the existence of a “dispute” under Article 60 of the Statute of the Court, where none exists.

1.29 Malaysia misleadingly paints a negative picture of the work of the MSJTC, describing it as having “failed to achieve its stated aims”⁴², “reached an impasse”⁴³, arrived at a “deadlock”⁴⁴, been “incapable of making progress”⁴⁵ and “proven unsuccessful”⁴⁶. Malaysia’s objective is to try to convince the Court that the Parties therefore disagree over the meaning or scope of the Judgment. But Malaysia’s contentions do not show any dispute over the Court’s findings in the Judgment, and are contradicted by its own conduct and statements over the years.

1.30 As explained above, through the MSJTC, *both* Parties undertook a joint survey; reached agreement on how to manage incidents at sea and conduct search and rescue operations; agreed that traditional fishing activities could continue; discussed the management of other maritime and airspace issues; and commenced maritime boundary delimitation. Throughout the entire period, *both* Parties issued many public statements at the highest levels of their governments noting and commending the progress made by the MSJTC and its sub-committees⁴⁷. None of these facts are

⁴² Request for Interpretation, para. 3.

⁴³ *Ibid.*, para. 11.

⁴⁴ *Ibid.*, paras. 11 and 20.

⁴⁵ *Ibid.*, para. 11.

⁴⁶ *Ibid.*, para. 20.

⁴⁷ *See*, for example, Joint Press Statement by Malaysia’s Ministry of Foreign Affairs and Singapore’s Ministry of Foreign Affairs, “Joint Press Statement: The Second Malaysia-Singapore Joint Technical Committee (MSJTC) Meeting on the Implementation of the International Court of Justice Judgment on Pedra Branca, Middle Rocks and South Ledge”, dated 1 September 2008, attached as **Annex 25 to these Written Observations**, p. A221, fifth para.; Joint Press

consistent with Malaysia's case that the MSJTC was mired in disagreements over the meaning or scope of the Judgment. In fact, the full documentary records of the discussions in the MSJTC and its sub-committees annexed by the Parties show clearly that there is no dispute between the Parties concerning the meaning or scope of the Court's *dispositif* as alleged by Malaysia.

C. The Request for Interpretation and Malaysia's Earlier Application for Revision of the Judgment

- 1.31 The Request for Interpretation constitutes Malaysia's second attempt to appeal the Judgment. On 2 February 2017, Malaysia filed the Application for Revision, in which it sought, on the basis of three sets of documents, revision of the finding of the Court that sovereignty over Pedra Branca belongs to Singapore. Malaysia claims that these documents were discovered only after August 2016, and were unknown to the Court and to Malaysia when the Judgment was rendered.
- 1.32 On 24 May 2017, Singapore submitted its Written Observations on the admissibility of the Application for Revision. Singapore demonstrated in those Written Observations that, save for the requirement that the Application for Revision must be brought within ten years of the

Statement by Malaysia's Foreign Minister and Singapore's Foreign Minister, "Third Meeting of the Malaysia-Singapore Joint Technical Committee (MSJTC) on the Implementation of the International Court of Justice Judgment on Pedra Branca, Middle Rocks and South Ledge", dated 8 January 2010, attached as **Annex 48 to these Written Observations, p. A501**, fourth para.; "Joint Statement by Prime Minister Lee Hsien Loong and Prime Minister Dato' Sri Mohd Najib Tun Abdul Razak at the Singapore-Malaysia Leaders' Retreat in Singapore on 19 February 2013", Request for Interpretation, Annex 3, para. 7; and "Joint Statement by Prime Minister Dato' Sri Mohd Najib Tun Abdul Razak and Prime Minister Lee Hsien Loong at the Malaysia-Singapore Leaders' Retreat in Putrajaya, Malaysia on 7 April 2014", Request for Interpretation, Annex 5, para. 12.

Judgment, Malaysia has failed to meet any of the admissibility conditions set out in Article 61 of the Statute of the Court.

- 1.33 Less than two weeks after Singapore filed its Written Observations on the admissibility of the Application for Revision, Malaysia by way of a letter dated 6 June 2017 informed the Registrar of the Court that “Malaysia will shortly be submitting an Application for Interpretation of the Judgment of 23 May 2008 in the *Case concerning Sovereignty over Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge (Malaysia/Singapore)*, pursuant to Article 60 of the Statute of the Court”⁴⁸. Malaysia informed the Court that:

“Malaysia had originally intended to submit the Application for Interpretation at the same time as the Application for Revision was filed on 2nd February 2017”⁴⁹

and that:

“ ... given the relationship between the Application for Revision and the Application for Interpretation, the Court may consider it appropriate for the two applications to be addressed in parallel.”⁵⁰

- 1.34 However, in the Request for Interpretation, Malaysia now claims that “the present Application for interpretation, which is made in accordance with Article 60 of the Statute of the Court, is separate and autonomous from the current revision proceedings before the Court, even if the two proceedings are necessarily closely related”⁵¹.

⁴⁸ Letter from Malaysia to the Registrar of the International Court of Justice, dated 6 June 2017, attached as **Annex 105 to these Written Observations**.

⁴⁹ *Ibid.*

⁵⁰ *Ibid.*

⁵¹ Request for Interpretation, para. 7.

1.35 Singapore has pointed out that the Application for Revision was made for internal reasons and has nothing to do with its merits. This comment applies equally to the Request for Interpretation. It is telling that Malaysia does not explain why the need for interpretation has only arisen four years after the alleged “impasse” at the MSJTC or why the Request for Interpretation could not have been filed sooner and instead was only filed after Singapore had filed its Written Observations on the admissibility of the Application for Revision. The filings of the Request for Interpretation and Application for Revision appear instead to be a political manoeuvre to demonstrate to Malaysia’s domestic audience that Malaysia is seeking by all means to reverse those parts of the Judgment which Malaysia regards as adverse to itself, and if unsuccessful, to seek a ruling of the Court on delimitation in its favour. In fact, in respect of South Ledge, the Request for Interpretation is a disguised attempt yet again to revise the Judgment in Malaysia’s favour. These attempts run counter to Malaysia’s claimed commitment to “honour and abide by the ICJ’s judgment and fully implement its decision”⁵², and constitute a backdoor appeal that goes against the *res judicata* principle upon which both the processes of interpretation and of revision are premised. Like the Application for Revision, the Request for Interpretation should be dismissed.

⁵² See, for example, Joint Press Statement by Malaysia’s Foreign Minister and Singapore’s Foreign Minister, “Fifth Meeting of the Malaysia-Singapore Joint Technical Committee (MSJTC) on the Implementation of the International Court of Justice Judgment on Pedra Branca, Middle Rocks and South Ledge”, dated 2 December 2010, attached as **Annex 67 to these Written Observations**. See also Article 6 of the Special Agreement of 6 February 2003: “The Parties agree to accept the Judgment of the Court given pursuant to this Special Agreement as final and binding upon them” (Judgment, p. 19, para. 2).

D. Structure of these Written Observations

1.36 These Written Observations are divided into four Chapters including this introductory chapter. The remaining Chapters are organised as follows:

- (a) Chapter II sets out the legal requirements applicable to requests for interpretation of judgments of the Court, as set out in the Statute of the Court Statute and Rules of Court, as well as in the jurisprudence of the Court.
- (b) Chapter III will address Malaysia's first submission in respect of the waters surrounding Pedra Branca. Singapore will show that the Court has no jurisdiction over this part of the Request for Interpretation, that it is inadmissible, and that the first paragraph of the operative clause of the Judgment is clear and requires no interpretation.
- (c) Chapter IV will discuss Malaysia's second submission concerning South Ledge. Singapore will again demonstrate that the Court has no jurisdiction in respect of this aspect of the Request for Interpretation, that it is likewise inadmissible, and that the third paragraph of the operative clause of the Judgment is clear and requires no interpretation.

1.37 A Summary of Singapore's Reasoning and Singapore's Submission are set out at the end of these Written Observations.

CHAPTER II

LEGAL REQUIREMENTS APPLICABLE TO A REQUEST FOR INTERPRETATION

2.1 As the Court recently observed in the *Temple of Preah Vihear* interpretation case, when faced with a request for interpretation of one of its judgments, the Court must first determine whether it has jurisdiction over the request, and if so, whether the request is admissible⁵³. This involves two separate requirements: first, there must exist a dispute as to the meaning or scope of the operative clause of the judgment in question (jurisdiction); and second, the real purpose of the request for interpretation must be solely to obtain clarification of the meaning and the scope of what the Court has decided with binding force, and not to obtain an answer to questions not so decided (admissibility).

A. Jurisdiction

2.2 With respect to jurisdiction, the Court has clarified that its task in matters concerning a request for interpretation under Article 60 of the Statute of the Court is

“ ... to clarify the meaning and scope of what the Court decided in the judgment which it is requested to interpret (*Request for Interpretation of the Judgment of 20 November 1950 in the Asylum Case (Colombia v. Peru)*, *Judgment, I.C.J. Reports 1950*, p. 402).”⁵⁴

2.3 However, no interpretation is needed if the judgment of the Court is clear. In such a case, the Court lacks jurisdiction to decide on the request for

⁵³ *Request for Interpretation of the Judgment of 15 June 1962 in the Case concerning the Temple of Preah Vihear (Cambodia v. Thailand) (Cambodia v. Thailand)*, *Judgment, I.C.J. Reports 2013*, p. 294, para. 30.

⁵⁴ *Ibid.*, p. 306, para. 66.

interpretation. Moreover, to interpret a clear judgment would not only be inappropriate, it would also put into question the finality of the Court's judgment itself and the *res judicata* principle guaranteed by Article 60 of the Statute of the Court. As the Court stated concerning the request for interpretation submitted by Nigeria in *Cameroon v. Nigeria*:

“It follows from the foregoing that the Court has already clearly dealt with and rejected, in its Judgment of 11 June 1998, the first of the three submissions presented by Nigeria at the end of its request for interpretation ... The Court would therefore be unable to entertain this first submission without calling into question the effect of the Judgment concerned as *res judicata*.”⁵⁵

In other words, if the meaning of a judgment is clear, there is no need to interpret it any further: *in claris non fit interpretatio*.

- 2.4 In the Request for Interpretation, Malaysia acknowledges that the Court must be satisfied that it has jurisdiction over the request for interpretation and that the request is admissible⁵⁶. With respect to jurisdiction, Malaysia refers to the well-established principle that a party requesting interpretation must satisfy two conditions: (i) that a dispute exists between the Parties, and (ii) that such dispute concerns the meaning or scope of the operative part of the judgment⁵⁷. These conditions arise from Article 60 of the Statute of the Court, which provides that:

“The judgment is final and without appeal. In the event of dispute as to the meaning or scope of the judgment, the Court shall construe it upon the request of any party.”

⁵⁵ *Request for Interpretation of the Judgment of 11 June 1998 in the Case concerning the Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v. Nigeria), Preliminary Objections (Nigeria v. Cameroon), Judgment, I.C.J. Reports 1999, pp. 38-39, para. 16.*

⁵⁶ Request for Interpretation, para. 21.

⁵⁷ *Ibid.*, para. 24.

They also follow from the provisions of Article 98, paragraph 2, of the Rules of Court, which stipulates that:

“A request for the interpretation of a judgment may be made either by an application or by the notification of a special agreement to that effect between the parties; the precise point or points in dispute as to the meaning or scope of the judgment shall be indicated.”

2.5 It is apparent that these two conditions need to be considered together. The existence of a “dispute” is not in itself sufficient for jurisdictional purposes. The real issue is whether the Parties have a dispute over a matter that the Court has decided with binding force. As the Court put it in its judgment on the request for interpretation in the *Asylum* case: “it is necessary that there should exist a dispute as to the meaning or scope of the judgment”⁵⁸. Moreover, as the Court has also observed:

“ ... any request for interpretation must relate to the operative part of the judgment and cannot concern the reasons for the judgment except in so far as these are inseparable from the operative part.”⁵⁹

⁵⁸ *Request for Interpretation of the Judgment of 20 November 1950 in the Asylum Case (Colombia v. Peru)*, Judgment, I.C.J. Reports 1950, p. 402. See also *Application for Revision and Interpretation of the Judgment of 24 February 1982 in the Case concerning the Continental Shelf (Tunisia/Libyan Arab Jamahiriya) (Tunisia v. Libyan Arab Jamahiriya)*, Judgment, I.C.J. Reports 1985, p. 223, para. 56; and *Request for Interpretation of the Judgment of 11 June 1998 in the Case concerning the Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v. Nigeria)*, Preliminary Objections (*Nigeria v. Cameroon*), Judgment, I.C.J. Reports 1999, pp. 36-37, para. 12.

⁵⁹ *Request for Interpretation of the Judgment of 11 June 1998 in the Case concerning the Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v. Nigeria)*, Preliminary Objections (*Nigeria v. Cameroon*), Judgment, I.C.J. Reports 1999, p. 35, para. 10; *Request for Interpretation of the Judgment of 31 March 2004 in the Case concerning Avena and Other Mexican Nationals (Mexico v. United States of America) (Mexico v. United States of America)*, Provisional Measures, Order of 16 July 2008, I.C.J. Reports 2008, p. 323, para. 47; *Request for Interpretation of the Judgment of 15 June 1962 in the*

- 2.6 In this regard, the positions of the Parties in respect of the meaning or scope of a judgment of the Court are relevant for the purpose of determining whether there exists a dispute over the meaning or scope of the Judgment for jurisdictional purposes under Article 60 of the Statute of the Court. While the conduct of the Parties after a judgment cannot affect the interpretation of the judgment, facts subsequent to the delivery of the judgment are relevant for determining whether such a dispute exists⁶⁰.
- 2.7 Singapore will demonstrate, in Chapters III and IV below, that there is no dispute between the Parties over the *dispositif* of the Judgment and, on this ground alone, the Request for Interpretation cannot stand. Moreover, the first and third paragraphs of the operative clause of the Judgment are crystal clear in meaning and require no interpretation. Any dispute between the Parties is not over their meaning or scope, but over the extent of each Party's maritime and airspace entitlements, matters that the Court was not requested to decide and did not decide in the Judgment.

B. Admissibility

- 2.8 With respect to the admissibility of a request for interpretation, the Court has emphasised that:

“The real purpose of the request must be to obtain an interpretation of the judgment. This signifies that its object must be solely to obtain clarification of the meaning and the

Case concerning the Temple of Preah Vihear (Cambodia v. Thailand) (Cambodia v. Thailand), Judgment, I.C.J. Reports 2013, p. 296, para. 34.

⁶⁰ *Request for Interpretation of the Judgment of 15 June 1962 in the Case concerning the Temple of Preah Vihear (Cambodia v. Thailand) (Cambodia v. Thailand), Provisional Measures, Order of 18 July 2011, I.C.J. Reports 2011, p. 546, para. 37.*

scope of what the Court has decided with binding force, and not to obtain an answer to questions not so decided. Any other construction of Article 60 of the Statute would nullify the provision of the article that the judgment is final and without appeal.”⁶¹

2.9 To the extent that a request for interpretation may go further, and seek “to obtain an answer to questions not so decided”, the Court has also stated that “no effect can be given to it”⁶². As the Court observed in the *Temple of Preah Vihear* interpretation case:

“ ... the Court must keep strictly within the limits of the original judgment and cannot question matters that were settled therein with binding force, nor can it provide answers to questions the Court did not decide in the original judgment.”⁶³

2.10 The Court has also pointed out that:

“ ... an interpretation – given in accordance with Article 60 of the Statute ... cannot go beyond the limits of that judgment itself, which are fixed by the special agreement.”⁶⁴

⁶¹ *Request for Interpretation of the Judgment of 20 November 1950 in the Asylum Case, I.C.J. Reports 1950*, p. 402. See also, *Request for Interpretation of the Judgment of 15 June 1962 in the Case concerning the Temple of Preah Vihear (Cambodia v. Thailand) (Cambodia v. Thailand), Judgment, I.C.J. Reports 2013*, p. 303, para. 55.

⁶² *Application for Revision and Interpretation of the Judgment of 24 February 1982 in the Case concerning the Continental Shelf (Tunisia/Libyan Arab Jamahiriya) (Tunisia v. Libyan Arab Jamahiriya), Judgment, I.C.J. Reports 1985*, p. 223, para. 56.

⁶³ *Request for Interpretation of the Judgment of 15 June 1962 in the Case concerning the Temple of Preah Vihear (Cambodia v. Thailand) (Cambodia v. Thailand), Judgment I.C.J. Reports 2013*, p. 306, para. 66.

⁶⁴ *Interpretation of Judgment No. 3 (Treaty of Neuilly) (Chamber of Summary Procedure), Judgment, 1925, P.C.I.J., Series A, No. 4*, p. 7.

and that:

“... one must bear in mind the principle that it is the duty of the Court not only to reply to the questions as stated in the final submissions of the parties, but also to abstain from deciding points not included in those submissions.”⁶⁵

2.11 Singapore will show, in Chapters III and IV, that the Request for Interpretation is inadmissible because Malaysia asks the Court to go beyond the scope of the Judgment, and rule upon matters that the Court did not, and indeed could not, decide with binding force.

⁶⁵ *Request for Interpretation of the Judgment of 20 November 1950, in the Asylum Case (Colombia v. Peru), Judgment, I.C.J. Reports 1950, p. 402; See also, Application for Revision and Interpretation of the Judgment of 24 February 1982 in the Case concerning the Continental Shelf (Tunisia/Libyan Arab Jamahiriya) (Tunisia v. Libyan Arab Jamahiriya), Judgment, I.C.J. Reports 1985, p. 217, para. 44.*

CHAPTER III

MALAYSIA'S FIRST SUBMISSION: THE WATERS SURROUNDING PEDRA BRANCA

- 3.1 Malaysia's first submission asks the Court to adjudge and declare that: "The waters surrounding Pedra Branca/Pulau Batu Puteh remain within the territorial waters of Malaysia"⁶⁶. In support of this submission, Malaysia argues that "[t]he Parties have been unable to agree over the meaning of the 2008 Judgment as it concerns ... the waters surrounding Pedra Branca/Pulau Batu Puteh", and that, in this context, "it has become necessary to request interpretation of those parts of the 2008 Judgment over which the Parties cannot agree."⁶⁷
- 3.2 Malaysia attempts to link this submission to the first paragraph of the operative clause of the Judgment by asserting that the Parties have been unable to agree on the meaning and scope of "(1) the Court's finding that 'sovereignty over Pedra Branca/Pulau Batu Puteh belongs to Singapore'"⁶⁸. However, this assertion is entirely artificial and devoid of merit. The first paragraph of the operative clause of the Judgment is perfectly clear and requires no interpretation. The Court found that "sovereignty over Pedra Branca/Pulau Batu Puteh belongs to the Republic of Singapore"⁶⁹. There is no dispute between the Parties on this point. Whatever dispute exists, as attested to by the annexes filed with the

⁶⁶ Request for Interpretation, para. 56(a). Malaysia's second submission in the Request for Interpretation, concerning South Ledge, is addressed in Chapter IV below.

⁶⁷ *Ibid.*, paras. 4-5.

⁶⁸ *Ibid.*, para. 5, citing para. 300(1) of the Judgment.

⁶⁹ Judgment, p. 101, para. 300(1).

Request for Interpretation, concerns the extent of each Party's maritime and airspace entitlements, not the finding that sovereignty over the island belongs to Singapore. But the extent of the maritime and airspace entitlements around Pedra Branca was intentionally not placed before the Court in the original case.

3.3 It will be recalled that in Article 2(a) of the Special Agreement, the Parties requested the Court to determine whether sovereignty over Pedra Branca/Pulau Batu Puteh belongs to Malaysia or the Republic of Singapore⁷⁰. This was the question decided by the Court in the first paragraph of the *dispositif*. The Court was not requested to determine any question of maritime entitlements or delimitation between the Parties. It had no jurisdiction to do so, and accordingly made no such ruling. The *res judicata* effect of the Judgment therefore extends solely to the decision on sovereignty, a matter that needs no interpretation. It follows that Malaysia's submission is patently misguided when it nonetheless requests the Court "to render an authoritative and binding interpretation of the meaning of its 2008 Judgment in respect of the waters surrounding Pedra Branca/Pulau Batu Puteh"⁷¹.

3.4 In Section A of this Chapter, Singapore will show that there is no jurisdictional basis for Malaysia's first submission. Quite simply, the first paragraph of the operative clause of the Judgment is clear and there is no dispute between the Parties over the meaning or scope of the Court's ruling that sovereignty over Pedra Branca belongs to Singapore. Indeed, the facts which Malaysia relies on demonstrate why Malaysia has no basis for submitting the Request for Interpretation.

⁷⁰ The text of the Special Agreement is set out in para. 2 of the Judgment. Article 2 of the Special Agreement is also reproduced in para. 1.6 above.

⁷¹ Request for Interpretation, para. 6.

- 3.5 In Section B of this Chapter, Singapore will show that Malaysia’s first submission is also inadmissible under the well-established conditions for the admissibility of requests for interpretation. By requesting the Court to declare that “[t]he waters surrounding Pedra Branca/Pulau Batu Puteh remain within the territorial waters of Malaysia”⁷², Malaysia is seeking an answer to a question that the Court was not called upon to decide in the original case, and that the Court did not decide.
- 3.6 In Section C of this Chapter, Singapore will offer concluding remarks on Malaysia’s first submission.

A. The Absence of Jurisdiction for Malaysia’s First Submission

- 3.7 In making the Request for Interpretation, Malaysia tries to blur the requirement that there must be a dispute over the meaning or scope of the Judgment by referring to the principle that a legal dispute exists between two States when there is “a disagreement on a point of law or fact, a conflict of legal views or of interests between two persons”⁷³, or when “the claim of one party is positively opposed by the other”⁷⁴. Malaysia then points to a stream of diplomatic correspondence between the Parties following the Judgment, in which they took different positions over the delimitation of the waters surrounding Pedra Branca, in order to argue that there is a “legal dispute” between the Parties. Based on this material, Malaysia asserts, without any explanation, that this “dispute” concerns the

⁷² Request for Interpretation, para. 56(a).

⁷³ *Ibid.*, para. 26, citing *Mavrommatis Palestine Concessions, Judgment No. 2, 1924, P.C.I.J., Series A, No. 2*, p. 11.

⁷⁴ *Ibid.*, para. 26, citing *South West Africa Cases (Ethiopia v. South Africa; Liberia v. South Africa), Preliminary Objections, Judgment of 21 December 1962, I.C.J. Reports 1962*, p. 328.

first paragraph of the operative clause of the Judgment, in which the Court found that “sovereignty over Pedra Branca/Pulau Batu Puteh belongs to the Republic of Singapore”, and that the condition that there be a dispute for jurisdictional purposes is thus “fully satisfied”⁷⁵.

3.8 This is where Malaysia’s arguments on jurisdiction collapse. For nothing in the Parties’ conduct, interactions or correspondence in the years following the delivery of the Judgment shows the existence of a dispute over the meaning or scope of what the Court decided in the first paragraph of the operative clause of the Judgment – namely, that sovereignty over Pedra Branca belongs to Singapore. In fact, the Application for Revision reflects Malaysia’s acceptance that the meaning and scope of what the Court decided in the first paragraph of the operative clause of the Judgment is clear.

3.9 In the Request for Interpretation, Malaysia has asked the Court to adjudge and declare that “[t]he waters surrounding Pedra Branca/Pulau Batu Puteh remain within the territorial waters of Malaysia”⁷⁶. Malaysia appears to be arguing now that Singapore is not entitled to any territorial waters surrounding Pedra Branca and that all of the waters beyond the low-water line of Pedra Branca belong to Malaysia. However, its case is not borne out by Malaysia’s own conduct and statements. Whatever Malaysia may *now* say in the Request for Interpretation, the fact is that both Malaysia and Singapore have always conducted themselves on the basis that in the first paragraph of the operative clause of the Judgment, the Court awarded sovereignty over Pedra Branca to Singapore, but did not rule on the extent of the maritime entitlements of either Party. The conduct of both Parties also shows that they are *ad idem* that the extent of their maritime

⁷⁵ Request for Interpretation, para. 29.

⁷⁶ *Ibid.*, para. 56.

entitlements is to be determined through the process of maritime boundary delimitation.

3.10 In Chapter I, Singapore has set out various public statements made by Malaysia's Prime Minister and Foreign Minister after the delivery of the Judgment, which show that this was clearly Malaysia's position⁷⁷. In Chapter IV⁷⁸, Singapore sets out other public statements by the Malaysian Government at the highest levels that whether Singapore or Malaysia has sovereignty over South Ledge flows from maritime delimitation. These statements were reported in detail by the media, and can only be consistent with the premise that both Pedra Branca and Middle Rocks have territorial waters. Moreover, the entire point of extensive bilateral discussions between Singapore and Malaysia in the post-Judgment period, which Singapore has described in Chapter I, was to resolve how both Parties could move forward and delimit the waters in the area around Pedra Branca, Middle Rocks and South Ledge⁷⁹.

3.11 All of the MSJTC discussions were based on the obvious premise that Singapore had sovereignty over Pedra Branca while Malaysia had sovereignty over Middle Rocks, and that each Party had maritime and airspace entitlements which flow from this. Otherwise, there would be nothing to delimit. The Parties also recognised that the next step was to determine the extent of these entitlements bilaterally. In particular, the Memorandum of Understanding between the Government of Malaysia and the Government of the Republic of Singapore with regard to the Joint Hydrographic Survey in and around Pedra Branca and Middle Rocks

⁷⁷ See paras. 1.15-1.17 above.

⁷⁸ See paras. 4.11-4.18 below. See also **Appendix 2 to these Written Observations**.

⁷⁹ See paras. 1.15-1.17 above.

acknowledged that the purpose of the joint survey was “to prepare for eventual talks between both Parties on maritime issues in and around Pedra Branca and Middle Rocks”⁸⁰. This shows that Malaysia recognised at the time that the Court had only decided the sovereignty question, and had not concerned itself with the question of the delimitation of the waters around Pedra Branca, a matter that was left to the Parties and not put before the Court.

3.12 In the Request for Interpretation, Malaysia refers to various “incidents”⁸¹ involving Singapore and Malaysian Government personnel, vessels and aircraft in the area around Pedra Branca, Middle Rocks and South Ledge, and the diplomatic protests and correspondence that were exchanged by both sides in response. Malaysia attempts to rely on these actions and correspondence to show that there has been “ongoing disagreement between the Parties throughout the post-Judgment period on two issues: the status of South Ledge, and the status of the waters surrounding Pedra Branca/Pulau Batu Puteh”⁸². But all the exchanges between the Parties concerned the status of the waters around Pedra Branca, not sovereignty over the island. They reveal that Singapore and Malaysia have differing positions on the *extent* of each State’s maritime entitlements in the relevant area. These are not “disputes over the meaning or scope of the Judgment” for the simple reason that there has always been common ground between the Parties that the Court did not have jurisdiction to

⁸⁰ Request for Interpretation, Annex 2, p. 2. A copy of the signed Memorandum of Understanding is attached as **Annex 66 to these Written Observations**. In the same vein, the Joint Statement of the Parties’ Prime Ministers of 19 February 2013 welcomed the completion of the Joint Survey Works in and around Pedra Branca and Middle Rocks “and agreed that the next step would be for the MSJTC to move into the delimitation of maritime boundaries”: Request for Interpretation, Annex 3, para. 7. *See* para. 1.25 and fn. 30 above.

⁸¹ Request for Interpretation, para. 55.

⁸² *Ibid.*, para.12.

determine the extent of the Parties' waters surrounding Pedra Branca, and the first paragraph of the operative clause of the Judgment says absolutely nothing about those waters.

3.13 Despite the seemingly impressive number of documents Malaysia has annexed to the Request for Interpretation in an effort to show the existence of a dispute over the meaning or scope of the Judgment, those documents do no more than assert with tedious repetitiveness the same argument – namely, that the territorial waters surrounding Pedra Branca and the airspace over those waters are Malaysian⁸³.

3.14 The most that Malaysia has asserted in all its correspondence is that “[t]he waters around Batu Puteh are part of the territorial waters and maritime areas of Malaysia as depicted in the Map Defining the Boundaries of the Continental Shelf of Malaysia of 1979” and “the maritime area surrounding Batu Puteh is located within the territorial waters of Malaysia in accordance with the principles of international law as well as the Judgment of the ICJ.”⁸⁴ These assertions concern disagreement over how delimitation should be effected and not over the meaning or scope of the Judgment. None of the diplomatic correspondence cited by Malaysia, whether its protests over Singapore’s issuance of Notices to Airmen

⁸³ Malaysia itself notes that “[i]n no fewer than 54 diplomatic notes, Malaysia has reminded Singapore that the waters around Pedra Branca/Pulau Batu Puteh are within Malaysia’s territorial waters, and that the airspace above those waters is part of Malaysia’s airspace”: Request for Interpretation, para. 15.

⁸⁴ Note Verbale from the Ministry of Foreign Affairs, Malaysia to the High Commission of the Republic of Singapore in Kuala Lumpur, EC 53/2008, dated 29 October 2008, Request for Interpretation, Annex 121.

(NOTAMs)⁸⁵ and designation of Restricted Area WSR 31⁸⁶, or its responses to Singapore's protests over Malaysia's designation of dumping grounds for dredging activities⁸⁷, or interference with search and rescue and wreck removal and salvage operations⁸⁸ have ever pointed to any dispute over the meaning or scope of the Judgment.

- 3.15 In fact, contrary to the interpretation Malaysia seeks from the Court, all the discussions at the MSJTC and its sub-committees proceeded on the basis that *both* Singapore and Malaysia had overlapping maritime entitlements around Pedra Branca and Middle Rocks respectively in accordance with international law.
- 3.16 The interpretation which Malaysia seeks is also inconsistent with Malaysia's stance *even after* it filed the Request for Interpretation. In a recent tragic collision of two vessels which occurred in the vicinity of

⁸⁵ See, for example, Note Verbale from the Ministry of Foreign Affairs, Malaysia to the High Commission of the Republic of Singapore in Kuala Lumpur, EC 22/2009, dated 12 March 2009, Request for Interpretation, Annex 9.

⁸⁶ See, for example, Note Verbale from the Ministry of Foreign Affairs, Malaysia to the High Commission of the Republic of Singapore in Kuala Lumpur, EC 30/2009, dated 2 April 2009, Request for Interpretation, Annex 10.

⁸⁷ See, for example, Note Verbale from the Ministry of Foreign Affairs, Malaysia to the High Commission of the Republic of Singapore in Kuala Lumpur, EC 71/16, dated 28 June 2016, Request for Interpretation, Annex 61; and Note Verbale from the Ministry of Foreign Affairs, Malaysia to the High Commission of the Republic of Singapore in Kuala Lumpur, EC 144/16, dated 24 November 2016, Request for Interpretation, Annex 98.

⁸⁸ See, for example, Note Verbale from the Ministry of Foreign Affairs, Malaysia to the High Commission of the Republic of Singapore in Kuala Lumpur, EC 63/17, dated 8 June 2017, Request for Interpretation, Annex 62.

Pedra Branca⁸⁹, Malaysia's Chief of Navy published a maritime chart⁹⁰ on 21 August 2017 via social media, which clearly recognised that Singapore is entitled to a territorial sea generated from Pedra Branca (even if Singapore does not agree with the extent of the territorial sea as depicted). The maritime chart published by Malaysia's Chief of Navy, as well as the same maritime chart with Singapore's further annotations (in the blue text boxes), including translations of relevant words from the Malay language to the English language, for reference, are shown in **Inserts 1A** and **1B** respectively on the following pages.

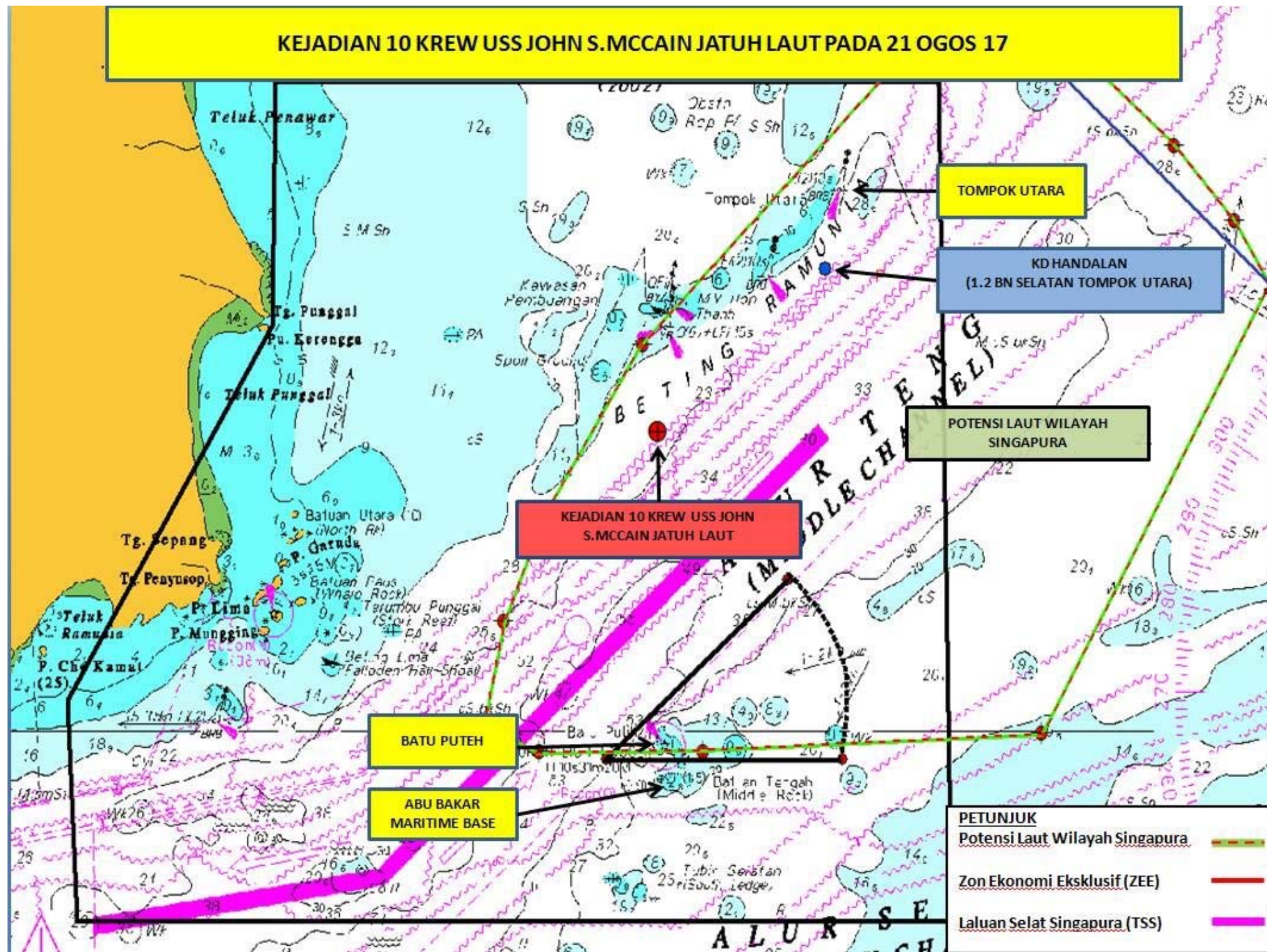
⁸⁹ This was a collision which occurred on 21 August 2017 between US guided-missile destroyer *USS John McCain* and Liberian-flagged merchant vessel *ALNIC MC* in the Singapore Strait, northeast of Pedra Branca: see press statement by the Maritime and Port Authority of Singapore, "Collision of US Guided-missile destroyer JOHN MCCAIN and TANKER ALNIC MC in Singapore Waters", dated 21 August 2017, attached as **Annex 106 to these Written Observations**.

⁹⁰ Screen captures of the Twitter posts by and profile of Malaysia's Chief of Navy, with enlargements of the maritime chart in the Twitter posts, and further annotations, including English translations by Singapore, are collectively attached as **Annex 107 to these Written Observations**. A screen capture of Malaysia's Chief of Navy's profile on the official website of the Malaysian Armed Forces Headquarters is attached as **Annex 108 to these Written Observations**.

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Insert 1A

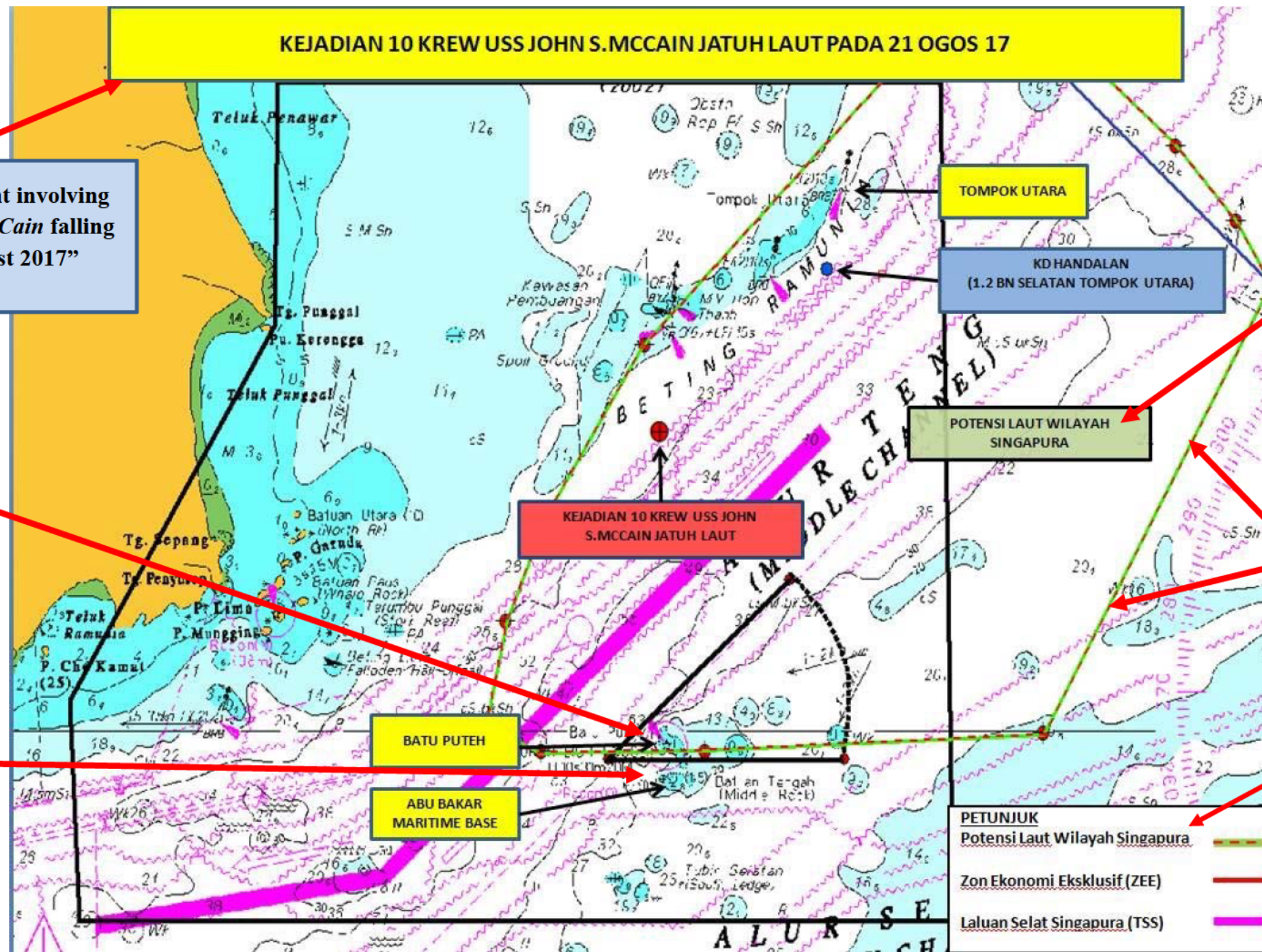
Maritime chart published by Malaysia's Chief of Navy on Twitter on 21 August 2017



Insert 1A – Maritime chart published by Malaysia’s Chief of Navy on Twitter on 21 August 2017

Insert 1B

Maritime chart published by Malaysia's Chief of Navy on Twitter on 21 August 2017, with Singapore's further annotations (in the blue text boxes), including translations of relevant words from the Malay language to the English language, for reference



This translates to, "incident involving 10 crew of *USS John S. McCain* falling into the sea on 21 August 2017"

Pedra Branca (Singapore)

Middle Rocks (Malaysia)

This translates to, "potential Singapore territorial sea"

This green line demarcates the extent of the "potential Singapore territorial sea"

This translates to, "potential Singapore territorial sea"

Insert 1B – Maritime chart published by Malaysia’s Chief of Navy on Twitter on 21 August 2017, with Singapore’s further annotations (in the blue text boxes), including translations of relevant words from the Malay language to the English language, for reference

- 3.17 The above images are extracts of a chart of the area in which the collision occurred, over which additional information was overlaid by Malaysia. The overlaid information highlights Pedra Branca (“BATU PUTEH” on the chart) and includes an area bounded in green lines which is labelled, “POTENSI LAUT WILAYAH SINGAPURA” (“potential Singapore territorial sea”). The Malaysian Chief of Navy’s tweet, and the accompanying chart containing Malaysia’s overlaid information on the “potential Singapore territorial sea”, were reported in the international media⁹¹. Clearly, even up until as recently as August 2017, the Malaysian Government at its highest levels continued to conduct itself in a manner which shows that there is no dispute over the meaning and scope of the first paragraph of the operative clause of the Judgment.
- 3.18 Malaysia’s attempt to now deny Singapore any maritime entitlements around Pedra Branca through its first submission is moreover clearly incompatible with international law. Under Article 121 of the United Nations Convention on the Law of the Sea (UNCLOS) and customary international law, the island of Pedra Branca generates its own maritime entitlements. Indeed, the Court recognised as much in the Judgment when it addressed the question of sovereignty over South Ledge (discussed in the next Chapter) by stating that it “will proceed on the basis of whether South Ledge lies within the territorial waters generated by Pedra Branca/Pulau Batu Puteh, which belongs to Singapore, or within those generated by Middle Rocks, which belongs to Malaysia.”⁹²

⁹¹ See, for example, report dated 21 August 2017 by *The Telegraph*, “‘That’s too bad’: Donald Trump criticised for response to news ten sailors missing, five injured after US warship collides with oil tanker near Singapore”, attached as **Annex 109 to these Written Observations**.

⁹² Judgment, p. 101, para. 297. As the Court noted in the *Territorial and Maritime Dispute* case: “It inevitably follows [from Article 121 of UNCLOS] that a comparatively small island may give an entitlement to a considerable maritime

- 3.19 For present purposes, however, this is not the question. Jurisdiction over a request for interpretation of a judgment of the Court depends on the existence of a dispute as to the meaning or scope of what the Court decided in the operative clause of its judgment. As is clear from the above, there is no dispute between the Parties over the meaning and scope of the Court’s holding that sovereignty over Pedra Branca belongs to Singapore. The fact that the Parties may have a dispute over the extent of their respective maritime and airspace entitlements does not provide a jurisdictional basis for the Court to entertain Malaysia’s first submission. Those issues bear no relation to the matters decided by the Court.
- 3.20 It follows that Malaysia has not satisfied the requirements of Article 60 of the Statute of the Court or Article 98, paragraph 2, of the Rules of Court, the latter of which obliges a party seeking interpretation to indicate the “precise point or points in dispute as to the meaning or scope of the judgment”⁹³. There is no such dispute over the first paragraph of the operative clause. In these circumstances, the statement of the Court in its judgment on the request for interpretation in the *Avena* case is particularly apposite:

“45. ... Whether or not there is a dispute, it does not bear on the interpretation of the *Avena* Judgment ...

area”. *Territorial and Maritime Dispute (Nicaragua v. Colombia)*, Judgment, *I.C.J. Reports 2012*, p. 689-690, para. 176.

⁹³ As the Court noted in *Request for Interpretation of the Judgment of 20 November 1950 in the Asylum Case (Colombia v. Peru)*, Judgment, *I.C.J. Reports 1950*, p.403, Article 98, para. 2, of the Rules of Court (which at the time was Article 79, para. 2) confirms the condition in Article 60 of the Statute that there must be a dispute on definite points over the meaning or scope of the judgment, and that a request that does not satisfy the requirements of Article 60 and Article 98, para. 2 is not admissible.

46. For these reasons, the Court cannot accede to Mexico's Request for interpretation."⁹⁴

3.21 The reality is that there can be no possible ambiguity, let alone need for interpretation, regarding the Court's holding that "sovereignty over Pedra Branca/Pulau Batu Puteh belongs to the Republic of Singapore". Those words say what they mean and mean what they say. Singapore has sovereignty over Pedra Branca; no more and no less. The exact same words are used in the *dispositif* for Middle Rocks, over which Malaysia has not raised any issue of interpretation. Both formulations are equally clear. It follows that there are no possible grounds for Malaysia's first submission for interpretation (*in claris non fit interpretatio*).

B. Malaysia's First Submission Is Inadmissible

3.22 The clarity of the Judgment and the absence of a dispute providing a jurisdictional basis for entertaining Malaysia's first submission are sufficient reasons for dismissing that submission. Nonetheless, Singapore will show in this section that Malaysia's submission is also inadmissible under the well-established criteria for admissibility that have been consistently applied by the Court, which Singapore has set out in Chapter II.

3.23 Malaysia pays lip service to these principles in the Request for Interpretation⁹⁵. But it completely fails to apply them with respect to its

⁹⁴ *Request for Interpretation of the Judgment of 31 March 2004 in the Case concerning Avena and Other Mexican Nationals (Mexico v. United States of America) (Mexico v. United States of America), Judgment, I.C.J. Reports 2009, p. 17, paras. 45-46.*

⁹⁵ Request for Interpretation, para. 50.

own first submission for interpretation. That submission, it must be recalled, is for the Court to adjudge and declare that:

“[t]he waters surrounding Pedra Branca/Pulau Batu Puteh remain within the territorial waters of Malaysia”⁹⁶.

3.24 It is clear on its face that, in this submission, Malaysia asks the Court by way of an interpretation of the Judgment to answer a question – the extent of the Parties’ entitlements to the waters surrounding Pedra Branca – that was simply not decided by the Court in the Judgment, and could not be decided by the Court because it was not within its mandate to do so. As such, it is patently inadmissible under the Court’s consistent jurisprudence on this point, and should be given no effect.

3.25 Singapore has already recalled that the Special Agreement submitting the original case to the Court limited the request made to the Court to a determination of sovereignty over three features: Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge. Nothing in the Special Agreement sought any ruling from the Court on the extent of the Parties’ maritime entitlements in the waters around these features. This is well reflected in the title of the original case: “*Sovereignty over Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge*”.

3.26 Malaysia’s own pleadings in the original case confirm the point. In its Memorial, Malaysia specifically described the scope of the case in the following terms:

“The Special Agreement places before the Court a dispute between the Parties relating to sovereignty over an island at the entrance to the South China Sea, Pulau Batu Puteh (Pedra Branca), as well as two other features, Middle Rocks and South Ledge (hereinafter collectively referred to as the ‘three features’). Specifically the Court is asked ‘to

⁹⁶ Request for Interpretation, para. 56(a).

determine whether sovereignty over (a) Pedra Branca/Pulau Batu Puteh; (b) Middle Rocks; (c) South Ledge, belongs to Malaysia or to the Republic of Singapore’.”⁹⁷

Malaysia then repeated the point in its “Overview of the Dispute”:

“The question put to the Court refers to sovereignty over three features, Pulau Batu Puteh, Middle Rocks and South Ledge.”⁹⁸

3.27 Similarly, in its Counter-Memorial, Malaysia stated that:

“To avoid any risk of confusion in the light of these statements, it should be emphasised what this case is and is not about. This case concerns sovereignty – over PBP [*i.e.* Pulau Batu Puteh/Pedra Branca], Middle Rocks and South Ledge – and that alone.”⁹⁹

3.28 Malaysia’s submissions were to the same end. For example, in its final submissions read out at the end of the oral proceedings in the original case, Malaysia stated the following:

“In accordance with Article 60, paragraph 2, of the Rules of Court, [Malaysia] respectfully request[s] the Court to adjudge and declare that sovereignty over:

(a) Pedra Branca/Pulau Batu Puteh ... belongs to Malaysia.”¹⁰⁰

3.29 Quite clearly, Malaysia did not ask for, and did not expect, any ruling from the Court on the extent of the Parties’ maritime entitlements in the waters surrounding Pedra Branca. Nor did Singapore. In its Memorial, Singapore recalled that the Special Agreement “does not request the Court

⁹⁷ Memorial of Malaysia, para. 3.

⁹⁸ *Ibid.*, para. 5.

⁹⁹ Counter-Memorial of Malaysia, para. 183.

¹⁰⁰ Judgment, pp. 21-22, para. 15.

to enter into an exercise of delimitation or to make declarations concerning fishing or other economic rights.”¹⁰¹ Moreover, Singapore’s submissions were also limited to the question of sovereignty, in requesting the Court to adjudge and declare that “the Republic of Singapore has sovereignty over Pedra Branca/Pulau Batu Puteh”¹⁰².

3.30 The Parties limited the scope of the original matter submitted to the Court to the question of sovereignty. The Court had no jurisdiction to rule on the extent of the waters surrounding Pedra Branca and Middle Rocks which appertained to Singapore or Malaysia, and the Judgment’s *dispositif* contains no such ruling. To the contrary, the Court underlined that it had not been mandated by the Parties to draw the delimitation line with respect to the Parties’ respective territorial waters¹⁰³. The Court also excluded the possibility that its Judgment could be interpreted to mean that Pedra Branca had no territorial waters by noting that “South Ledge falls within the apparently overlapping territorial waters generated by the mainland of Malaysia, Pedra Branca/Pulau Batu Puteh and Middle Rocks.”¹⁰⁴

3.31 Based on the foregoing, it is abundantly clear that when Malaysia now asks the Court to adjudge and declare that “[t]he waters surrounding Pedra Branca/Pulau Batu Puteh remain within the territorial waters of Malaysia”, it is seeking an answer to a question that was not decided by the Court in the Judgment nor within its mandate to do so. As the Court stated in the *Avena* case: “In short, the question is not decided in the

¹⁰¹ Memorial of Singapore, para. 1.4.

¹⁰² Judgment, p. 21, para. 15.

¹⁰³ *Ibid.*, p. 101, para. 298.

¹⁰⁴ *Ibid.*, p. 101, para. 297.

Court's original Judgment and thus cannot be submitted to it for interpretation under Article 60 of the Statute."¹⁰⁵ The submission is thus inadmissible; its real purpose is not to seek an interpretation of the Judgment, and it should be rejected *in limine*.

C. Conclusions on Malaysia's First Submission

3.32 Malaysia's first submission for interpretation is fundamentally flawed. Malaysia has not demonstrated, in accordance with Article 60 of the Statute and Article 98, paragraph 2, of the Rules of Court, that there is any dispute between the Parties over the meaning or scope of the Court's holding that sovereignty over Pedra Branca/Pulau Batu Puteh belongs to the Republic of Singapore. On the contrary, the Parties have always acted post-Judgment on the basis that there is no ambiguity in the first paragraph of the operative clause of the Judgment, which is crystal clear in its meaning and scope, and requires no interpretation. In fact, the Application for Revision reflects Malaysia's acceptance that there is no dispute over the meaning or scope of the first paragraph of the operative clause of the Judgment. For these reasons, there is no jurisdictional basis for Malaysia's submission, and it cannot be given effect.

3.33 Malaysia's first submission is also inadmissible. It seeks a ruling from the Court – that “[t]he waters surrounding Pedra Branca/Pulau Batu Puteh remain within the territorial waters of Malaysia” – which was not decided in the Judgment. In other words, Malaysia's submission is not a genuine

¹⁰⁵ *Request for Interpretation of the Judgment of 31 March 2004 in the Case concerning Avena and Other Mexican Nationals (Mexico v. United States of America) (Mexico v. United States of America), Judgment, I.C.J. Reports 2009, p. 17, para. 44, citing Request for Interpretation of the Judgment of 20 November 1950 in the Asylum Case (Colombia v. Peru), Judgment, I.C.J. Reports 1950, p. 402.*

request for interpretation of the meaning and scope of what the Court decided with binding force in the Judgment. It should, therefore, be rejected.

CHAPTER IV

MALAYSIA'S SECOND SUBMISSION: SOVEREIGNTY OVER SOUTH LEDGE

- 4.1 In respect of South Ledge, Malaysia contends that “a dispute has emerged as to the meaning and scope of the 2008 Judgment” about the question “whether or not the operative clause of the 2008 Judgment has indeed decided with binding force the question of sovereignty over South Ledge.”¹⁰⁶ For this reason, it requests the Court to adjudge and declare that “South Ledge is located in the territorial waters of Malaysia, and consequently sovereignty over South Ledge belongs to Malaysia.”¹⁰⁷
- 4.2 In the Request for Interpretation, Malaysia has characterised Singapore’s position on the third paragraph of the operative clause of the Judgment as one which “entails the interpretation that the 2008 Judgment’s operative clause does not answer the specific question posed to it by the Parties.”¹⁰⁸ Malaysia claims that, “[i]n contrast, Malaysia considers that the Court had discharged its function”¹⁰⁹, and therefore suggests that the Parties are in dispute over this issue. This suggestion that Singapore views the Court as not having carried out the task allotted to it under the Special Agreement is both mischievous and incorrect. Singapore has always taken and maintains the position that the Court *has fully discharged its function* under Article 2(c) of the Special Agreement in ruling on sovereignty over South Ledge given the particular characteristics of that feature as a low-tide elevation.

¹⁰⁶ Request for Interpretation, para. 44.

¹⁰⁷ *Ibid.*, para. 56(b).

¹⁰⁸ *Ibid.*, para. 45.

¹⁰⁹ *Ibid.*, para. 46.

- 4.3 A definitive decision on sovereignty over South Ledge does not necessarily require the Court to say in its judgment that South Ledge belongs to Singapore or to Malaysia, just like a definitive determination of a maritime boundary between two States does not necessarily require the identification and determination of the exact end point¹¹⁰. The Court's decision is entirely clear and sufficient.
- 4.4 Having clarified that there is no dispute on this point, Singapore will show in this Chapter that Malaysia's second submission faces the same objections as those that apply to its first submission. In Section A, Singapore will demonstrate that the Court lacks jurisdiction over Malaysia's second submission. The arguments raised in the previous Chapter on the Court's jurisdiction in relation to Malaysia's first submission can be transposed *mutatis mutandis* to its second submission concerning sovereignty over South Ledge: the facts and history of the Parties' conduct following the delivery of the Judgment show that there is no dispute over the meaning or scope of the third paragraph of the operative clause of the Judgment.
- 4.5 In Section B, Singapore will show that, in any event, Malaysia's second submission is inadmissible, as its true purpose is to have the Court decide a question that it could not, and did not, decide in the Judgment.
- 4.6 In Section C, Singapore makes concluding remarks on Malaysia's second submission.

¹¹⁰ *Territorial and Maritime Dispute (Nicaragua v. Colombia)*, Application for Permission to Intervene, Judgment, *I.C.J. Reports 2011*, p. 442, para. 64. See also *Territorial and Maritime Dispute (Nicaragua v. Colombia)*, Judgment, *I.C.J. Reports 2012*, p. 685, para. 162.

A. The Absence of Jurisdiction for Malaysia's Second Submission

- 4.7 As recalled in Chapter II above¹¹¹, Article 60 of the Statute of the Court and Article 98, paragraph 2, of the Rules of Court provide that a Party requesting interpretation of a judgment must satisfy two cumulative conditions: (i) that a dispute exists between the Parties, and (ii) that such dispute concerns the meaning or scope of the operative clause of the judgment. These conditions have not been fulfilled in respect of Malaysia's second submission (concerning South Ledge) any more than in respect of its first submission (concerning the waters surrounding Pedra Branca).
- 4.8 In the Request for Interpretation, Malaysia has purportedly identified the "dispute" in respect of South Ledge in the following way:

"In light of these diplomatic exchanges, the precise point on which a dispute has emerged as to the meaning and scope of the 2008 Judgment is whether or not the operative clause of the 2008 Judgment has indeed decided with binding force the question of sovereignty over South Ledge. In the Special Agreement by which the Parties jointly initiated proceedings before the Court on 24 July 2003, the Parties requested the Court 'to determine whether sovereignty over ... South Ledge ... belongs to Malaysia or the Republic of Singapore'. The relevant section of the operative clause of the 2008 Judgment states that 'sovereignty over South Ledge belongs to the State in the territorial waters of which it is located'."¹¹²

- 4.9 Malaysia asserts that the Parties are in dispute "concerning the Court's finding that 'sovereignty over South Ledge belongs to the State in the territorial waters of which it is located'"¹¹³. The facts do not bear this out. Instead, the facts establish that, in reality, there is no dispute concerning

¹¹¹ See paras. 2.2-2.7 above.

¹¹² Request for Interpretation, para. 44.

¹¹³ Request for Interpretation, para. 39.

whether the third paragraph of the operative clause of the Judgment has decided the question of sovereignty over South Ledge. Both Parties have been clear over the meaning and scope of the third paragraph of the operative clause of the Judgment. The Parties have always recognised that, as the Judgment decided that sovereignty over South Ledge belongs to the State in the territorial waters of which it is located, and given the Court’s observation that “South Ledge falls within the apparently overlapping territorial waters generated by the mainland of Malaysia, Pedra Branca/Pulau Batu Puteh and Middle Rocks”¹¹⁴, maritime delimitation in the area is necessary.

4.10 Malaysia now argues “that the 2008 Judgment allocated to Malaysia sovereignty over South Ledge”¹¹⁵. Apart from being contrary to the Judgment, this is wholly unsupported by the facts and history of the Parties’ dealings. In other words, Malaysia has artificially manufactured a dispute where none exists. It is especially telling that at no point during a period of almost ten years following the Judgment has Malaysia ever stated that the Judgment in and of itself allocated sovereignty over South Ledge to Malaysia.

4.11 On the contrary, the Malaysian Government consistently made public statements recognising that the status of South Ledge fell to be determined between the Parties through delimitation talks. For example, shortly after the Judgment was delivered, Malaysia’s Prime Minister Abdullah Badawi explained at a press conference in Tokyo on 23 May 2008 that:

“We must be thankful that Middle Rocks belongs to us.
What needs to be determined is South Ledge ... ”¹¹⁶

¹¹⁴ Judgment, para. 297.

¹¹⁵ Request for Interpretation, para. 45.

¹¹⁶ Report dated 23 May 2008 by *Berita Nasional Malaysia (Bernama)*, “Malaysia Needs to Prepare to Implement ICJ Decisions”, attached as **Annex 5 to these Written Observations**.

A separate media report of the same press conference recorded that:

“[Malaysia’s Prime Minister] said Malaysia was grateful that the ICJ had awarded Middle Rocks to the nation, adding that the next step was for officials from both sides to meet to decide on the maritime demarcation line as soon as possible.

“Any discussion to be held or action to be taken with Singapore must be done in a peaceful manner and with understanding from both sides. We do not want any conflict to arise,” he stressed.

The Prime Minister also said that action must also be taken to determine the location of South Ledge.

“We need to determine the demarcation line to show that South Ledge is in our waters,” he added.”¹¹⁷

- 4.12 Malaysia’s then Foreign Minister, Dr Rais Yatim, also acknowledged in a press interview on 25 May 2008 that the Court did not find that South Ledge belonged to Malaysia. He stated:

“We are also pleased that the judgment which states that the territorial waters within which South Ledge is situated, will be, to be in favour of the state that has the territorial waters. We will work this out with the technical committee ... ”¹¹⁸

- 4.13 Malaysia’s Foreign Minister made similar points in another press interview given that day, noting that:

“We should not create commotion out of [the Judgment] because for the last two weeks we have laid the ground for a peaceful solution. The fact that we have won half and

¹¹⁷ Report dated 24 May 2008 by *The Star*, “A sad Abdullah accepts ICJ ruling”, attached as **Annex 7 to these Written Observations**.

¹¹⁸ Transcript of doorstep interview with Singapore’s Foreign Minister, George Yeo and Malaysia’s Foreign Minister, Dr Rais Yatim on 25 May 2008 at Yangon, attached as **Annex 10 to these Written Observations**; see also para. 1.15 above.

Singapore half, this is to us sufficient reward so far subject to our next negotiation on South Ledge.”¹¹⁹

He further stated that in the case of South Ledge, the joint technical committee set up by both countries would hold a meeting in two weeks’ time to lay down the principles and the steps ahead.

4.14 Singapore has always agreed with this position. Singapore’s official press statement on 23 May 2008 recognised that “[t]he Court also decided that South Ledge belongs to the country in whose territorial waters it is located.” It clarified, in response to media queries, that “[t]he Court was not asked to determine such questions of maritime space or boundary delimitation” and that “Singapore’s rights and interests on these matters will be pursued in accordance with international law.”¹²⁰

4.15 The official Malaysian Government press statement on the release of the Judgment also explained that the Judgment did not determine that South Ledge belongs to Malaysia. It acknowledged that:

“Relating to South Ledge, the Court ruled that its sovereignty is dependent on the State in which the territorial waters are located.”¹²¹

The press statement further added that:

¹¹⁹ Report dated 23 May 2008 by *Berita Nasional Malaysia (Bernama)*, “Msia Loses Batu Puteh Not Due to Weak Arguments, Says Rais”, attached as **Annex 6 to these Written Observations**.

¹²⁰ *Ministry of Foreign Affairs Press Statement, International Court of Justice Awards Sovereignty of Pedra Branca to Singapore*, dated 23 May 2008, attached as **Annex 2 to these Written Observations**.

¹²¹ *Statement by Minister of Foreign Affairs Dato’ Seri Utama Dr Rais Yatim to RTM on the Verdict by the International Court of Justice (ICJ) on the Pulau Batu Puteh Case, 23 May 2008*, attached as **Annex 3 to these Written Observations**.

“Since South Ledge is within the territorial waters of Middle Rocks, Malaysia *appears* to be the sovereign holder.”¹²²
[Emphasis added]

- 4.16 Such statements continued long after the Judgment was delivered. In 2010, the Malaysian media reported on remarks concerning South Ledge made by Malaysia’s Deputy Foreign Minister:

“Deputy Foreign Minister, A. Kohilan Pillay said that negotiations are underway with Singapore and are expected to take some time before a final decision is reached.

“Respectively Malaysia and Singapore want to claim their ownership rights over South Ledge.

“South Ledge is a rock that only emerges during low tide, it is situated in the overlapping area in the waters of Malaysia and Singapore,” he said when contacted by *Utusan Malaysia* here today.

...

With regard to that, Malaysia and Singapore need to detail the waters between Pedra Branca and Middle Rocks as well as South Ledge through the Technical Committee.”¹²³

- 4.17 Similar statements were made by the Chief Director of Research, Treaty and International Law of Malaysia’s Ministry of Foreign Affairs and Co-Agent of Malaysia in the original case:

¹²² *Statement by Minister of Foreign Affairs Dato’ Seri Utama Dr Rais Yatim to RTM on the Verdict by the International Court of Justice (ICJ) on the Pulau Batu Puteh Case, 23 May 2008, attached as **Annex 3 to these Written Observations.***

¹²³ Report dated 6 February 2010 by *Utusan Malaysia*, a Malaysian newspaper, “Malaysia pertahankan kedaulatan Tubir Selatan” (translated into English as: “Malaysia defends sovereignty over South Ledge”), and English translation provided by Singapore, attached as **Annex 49 to these Written Observations.**

“PUTRAJAYA 18 Feb. – Malaysia and Singapore need to carry out measuring works before determining the sovereignty of South Ledge in south Johor.

This was confirmed by the Chief Director of Research, Treaty and International Law of the Foreign Ministry, Datuk Noor Farida Ariffin in reply to the issue concerning the sovereignty of the rocky outcrop which only emerges when the tide is low.

She informed that even though geographical fact shows that South Ledge is situated in the national waters and is nearest to Middle Rocks, nevertheless Kuala Lumpur would continue with negotiations based on the spirit of neighbourliness and friendship with Singapore.

“Negotiations are needed to prove that Malaysia has sovereignty over South Ledge.

“This is one of the things that are contained in the Malaysia-Singapore Joint Technical Committee’s meeting agenda,” she said in a statement here today.”¹²⁴

4.18 There were, in fact, other similar statements made by the Malaysian Government at the highest levels, and reported in detail by the media. A list of, and extracts from, media reports setting out statements by the Malaysian Government that the Judgment did not determine whether Singapore or Malaysia had sovereignty over South Ledge, which consequently could only be determined by maritime boundary delimitation is set out in **Appendix 2 to these Written Observations**.

4.19 Malaysia therefore understood perfectly what the Court actually decided. That “South Ledge falls within Malaysia’s territorial waters” was nothing more than in the nature of a claim can be seen in the language carefully

¹²⁴ Report dated 19 February 2010 by *Utusan Malaysia*, “Wisma Putra jawab isu Tubir Selatan dengan Singapura” (translated into English as: “Wisma Putra replies about South Ledge issue with Singapore”), and English translation provided by Singapore, attached as **Annex 50 to these Written Observations**.

chosen by the Malaysian Government. It has remained clear to both Singapore¹²⁵ and Malaysia¹²⁶ that which State has sovereignty over South Ledge as a low-tide elevation depends on bilateral maritime delimitation. As Singapore has pointed out in Chapter I above, both Parties engaged at the MSJTC in extensive discussions and in conducting a joint survey on that basis.

- 4.20 The mutual understanding of the Parties concerning what the Court actually decided in respect of South Ledge is also confirmed by the numerous exchanges of notes and letters between Singapore and Malaysia. To support

¹²⁵ See, for example, letter from Singapore's Prime Minister, Lee Hsien Loong to Malaysia's Prime Minister, Abdullah Badawi, dated 26 May 2008, attached as **Annex 15 to these Written Observations** ("There is still work to be done to implement the decision of the Court, including finalising the status of South Ledge"); letter from Singapore's Permanent Secretary, Ministry of Foreign Affairs, Peter Ho to Malaysia's Secretary General, Ministry of Foreign Affairs, Rastam Mohd Isa, dated 22 August 2008, attached as **Annex 22 to these Written Observations** ("We both agreed that, consistent with the ICJ judgement, the status of South Ledge would have to be determined by the proper process of delimitation"); diplomatic note from Singapore to Malaysia, MFA/SEA/00025/2008, 23 August 2008, attached as **Annex 23 to these Written Observations**; letter from Singapore's Permanent Secretary, Ministry of Foreign Affairs, Peter Ho to Malaysia's Secretary General, Ministry of Foreign Affairs, Rastam Mohd Isa, dated 15 September 2008, attached as **Annex 27 to these Written Observations** ("As the delimitation of boundaries around Pedra Branca, Middle Rocks and South Ledge has yet to be carried out, the status of South Ledge remains indeterminate until the proper process of delimitation has taken place"); and letter from Singapore's Permanent Secretary, Ministry of Foreign Affairs, Peter Ho to Malaysia's Secretary-General, Ministry of Foreign Affairs, Rastam Mohd Isa, dated 12 October 2009, attached as **Annex 38 to these Written Observations** ("We both agreed that, consistent with the ICJ judgement, the status of South Ledge would have to be determined by the proper process of delimitation").

¹²⁶ See, for example, letter from Malaysia's Secretary General, Ministry of Foreign Affairs, Rastam Mohd Isa to Singapore's Permanent Secretary, Ministry of Foreign Affairs, Peter Ho, dated 29 August 2008, attached as **Annex 24 to these Written Observations** ("Consistent with the International Court of Justice (ICJ) judgment "that sovereignty over South Ledge belongs to the State in the territorial waters of which it is located", a proper process of delimitation of the whole area around Pedra Branca, Middle Rocks and South Ledge would have to be carried out.")

its arguments, Malaysia refers to these exchanges as evidence that they hold “differing interpretations of the meaning and effect”¹²⁷ of the third paragraph of the operative clause¹²⁸. However, a closer examination reveals that the positions taken by Malaysia in this correspondence in fact reflect, and are consistent with, its recognition that whether South Ledge belongs to Singapore or Malaysia depends on maritime delimitation.

4.21 In October 2008, only five months after the Court had rendered the Judgment, Malaysia started to send diplomatic notes and protests concerning the airspace and the maritime space of South Ledge. Until very recently¹²⁹, Malaysia never once suggested or claimed in its diplomatic notes that the Court had awarded South Ledge to Malaysia. Rather, Malaysia’s position was that:

“ ... the ICJ concluded that “*sovereignty over South Ledge, as a low tide elevation, belongs to the State in the territorial waters of which it is located*”. In light of the ICJ judgment, the Government of Malaysia strongly affirms that as Tubir Selatan/South Ledge is 7.9 nautical miles from the mainland of Johor and 1.7 nautical miles from Batuan Tengah/Middle Rocks, it is clearly located within the territorial waters of Malaysia. It naturally follows that sovereignty over Tubir Selatan/South Ledge belongs to Malaysia in accordance with the principles of international law in particular the United Nations Convention on the Law of the Sea (UNCLOS) 1982 as well as the Judgment of the ICJ.”¹³⁰

¹²⁷ Request for Interpretation, para. 47.

¹²⁸ In para. 47 of the Request for Interpretation, Malaysia refers to the “first part of the 2008 Judgment’s operative clause”. It appears that this should be a reference to the third paragraph of the operative clause of the Judgment concerning South Ledge.

¹²⁹ See paras. 4.26-4.29 below.

¹³⁰ Note Verbale from the Ministry of Foreign Affairs, Malaysia to the High Commission of the Republic of Singapore in Kuala Lumpur, EC 52/2008, dated 29 October 2008, Request for Interpretation, Annex 7.

- 4.22 This was repeated consistently by Malaysia in numerous subsequent diplomatic notes and letters which it sent to Singapore. A list of 53 notes and letters in which Malaysia set out its position on South Ledge is in **Appendix 3 to these Written Observations**.
- 4.23 Malaysia’s argument has been that South Ledge belongs to it because of its proximity to the Johor mainland and to Middle Rocks. This is not an argument about the meaning or scope of the Judgment. It is an argument about how the maritime boundary between the Parties should be drawn, taking into account the geography of the area. Malaysia’s contention has been that *because* South Ledge lies within the territorial waters which it claims around Middle Rocks and the Malaysian mainland, delimitation of the area will *result in* Malaysia having sovereignty over South Ledge. Leaving aside for the moment the fact that Malaysia’s claim ignores the fact that Pedra Branca also generates territorial waters, which the Court acknowledged in the Judgment¹³¹, this is different from what Malaysia now contends: that on a “true interpretation” of the Judgment¹³², the Court has *already* awarded sovereignty over South Ledge to Malaysia, without the need for any further delimitation of the area.
- 4.24 Singapore, on the other hand, has consistently pointed out that only maritime delimitation in the area provides a definitive solution to the question whether South Ledge falls in the territorial waters of Singapore or Malaysia. In its responses to Malaysia, Singapore has emphasised that:

“ ... the ICJ had only concluded that the sovereignty of South Ledge “belongs to the State in the territorial waters of which it is located” and that the status of South Ledge has

¹³¹ Judgment, p. 101, para. 297.

¹³² Note Verbale from the Ministry of Foreign Affairs, Malaysia to the High Commission of the Republic of Singapore in Kuala Lumpur, EC 46/17, dated 20 April 2017, Request for Interpretation, Annex 63.

to be determined through the process of maritime boundary delimitation between our two countries.”¹³³

4.25 Singapore has also repeated this position in numerous diplomatic notes and letters which it sent to Malaysia. A list of 41 notes and letters in which Singapore set out its position on South Ledge is in **Appendix 4 to these Written Observations**.

4.26 It was not until its diplomatic note dated 20 April 2017¹³⁴, *i.e.*, just two months before lodging the Request for Interpretation and some two and one-half months after filing the Application for Revision, that Malaysia took a different position in respect of its understanding of the Judgment. In that diplomatic note, Malaysia contended, for the first time, that it follows from the Judgment *itself* that South Ledge belonged to Malaysia:

“The Government of Malaysia wishes to state that in view of this Judgment which held, *inter alia*, that sovereignty over Middle Rocks belongs to Malaysia, Malaysia takes the position that, on a true interpretation of the Judgment, South Ledge falls within the territorial sea of Malaysia and is thus subject to the sovereignty of Malaysia.”¹³⁵

Malaysia claims that this note demonstrates that “[m]ost recently, Malaysia has restated its interpretation of the operative clause of the 2008 Judgment”¹³⁶. However, three observations in respect of Malaysia’s recent

¹³³ Diplomatic note from Singapore to Malaysia, MFA/SEA/00044/2008, dated 9 December 2008, attached as **Annex 28 to these Written Observations**.

¹³⁴ Note Verbale from the Ministry of Foreign Affairs, Malaysia to the High Commission of the Republic of Singapore in Kuala Lumpur, EC 46/17, dated 20 April 2017, Request for Interpretation, Annex 63.

¹³⁵ *Ibid.*

¹³⁶ Request for Interpretation, para. 43.

diplomatic note dated 20 April 2017¹³⁷ are called for. First, as noted above, the language adopted by Malaysia in the 20 April 2017 note is a complete departure from any of its previous statements on South Ledge. Malaysia’s statement in this note – that South Ledge is subject to Malaysia’s sovereignty “on a true interpretation of the Judgment” – is not only incorrect, but also an entirely new contention. Nowhere in any of Malaysia’s previous correspondence or statements has it ever taken the position that the Judgment *in and of itself* awarded sovereignty over South Ledge to it.

4.27 Second, the note was not sent in response to any recent incidents or interactions between the Parties or any statements made by either of them. The note itself provides no context whatsoever for its sudden issuance. It appeared out of the blue with no other purpose than to attempt to lay a foundation for a request for interpretation of the Judgment.

4.28 Third, Malaysia stated in this note that it was “willing to discuss with the Government of Singapore the question of the consequential delimitation of the relevant areas”. Singapore’s response, conveyed by way of a diplomatic note dated 25 May 2017, was that it “welcomes Malaysia’s confirmation ... that it is willing to discuss the question of delimitation.”¹³⁸ Further delimitation talks were therefore expressly countenanced by both Parties. Yet only two months later, Malaysia submitted the Request for Interpretation, alleging that there was absolutely no possibility of any further progress being made in bilateral discussions.

4.29 These three facts make it difficult to avoid the conclusion that the issuance of the 20 April 2017 note was simply a contrived attempt by Malaysia to

¹³⁷ Note Verbale from the Ministry of Foreign Affairs, Malaysia to the High Commission of the Republic of Singapore in Kuala Lumpur, EC 46/17, dated 20 April 2017, Request for Interpretation, Annex 63.

¹³⁸ Diplomatic note from Singapore to Malaysia, MFA/SEA1/00022/2017, dated 25 May 2017, attached as **Annex 103 to these Written Observations**.

create a dispute over the third paragraph of the operative clause of the Judgment where none actually existed. This is particularly apparent from Malaysia's letter to the Court dated 6 June 2017¹³⁹, in which Malaysia claimed that it had "originally intended to submit the Application for Interpretation at the same time as the Application for Revision was filed on 2nd February 2017." If Malaysia had indeed intended by February 2017 to submit a request for interpretation of the Judgment, then the issuance of the 20 April 2017 note was clearly a self-serving act done for no other reason than to artificially change its position on South Ledge in an attempt to meet the conditions in Article 60 of the Statute of the Court.

4.30 As the foregoing has demonstrated, contrary to Malaysia's contention, there is in fact no dispute over the meaning or scope of the Judgment. Rather, any issues that have arisen concern, once again, the extent of the Parties' territorial waters around South Ledge, a question that was not decided in the Judgment. As the Court noted in the *Asylum Case*: "it is necessary that there should exist a dispute as to the meaning or scope of the judgment."¹⁴⁰ There is no such dispute and the Court therefore lacks jurisdiction under Article 60 of the Statute of the Court.

¹³⁹ Letter from Malaysia to the Registrar of the International Court of Justice, dated 6 June 2017, attached as **Annex 105 to these Written Observations**.

¹⁴⁰ *Request for Interpretation of the Judgment of 20 November 1950 in the Asylum Case, Judgment, I.C.J. Reports 1950*, p. 402. See also *Application for Revision and Interpretation of the Judgment of 24 February 1982 in the Case concerning the Continental Shelf (Tunisia/Libyan Arab Jamahiriya) (Tunisia v. Libyan Arab Jamahiriya), Judgment, I.C.J. Reports 1985*, p. 223, para. 56; *Request for Interpretation of the Judgment of 11 June 1998 in the Case concerning the Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v. Nigeria), Preliminary Objections (Nigeria v. Cameroon), Judgment, I.C.J. Reports 1999*, pp. 36-37, para. 12.

B. Malaysia's Second Submission Is Inadmissible

- 4.31 As is the case concerning Malaysia's first submission, Malaysia's submission on South Ledge also does not satisfy the criteria for admissibility of requests for interpretation, which "must keep strictly within the limits of the original judgment and cannot question matters that were settled therein with binding force, nor can it provide answers to questions the Court did not decide in the original judgment."¹⁴¹
- 4.32 In the third paragraph of the operative clause, the Court held "that sovereignty over South Ledge belongs to the State in the territorial waters of which it is located."¹⁴² This decision was the consequence of the fact that South Ledge is a "special geographical feature as a low-tide elevation"¹⁴³, and that the Court had not been "mandated by the Parties to draw the line of delimitation with respect to the territorial waters of Malaysia and Singapore in the area in question."¹⁴⁴ The Court could not, and did not, decide that question or make any finding as to whether South Ledge is located within the territorial waters of Malaysia or Singapore, because it did not have the mandate to do so under the Special Agreement.
- 4.33 This is confirmed by the Court's reasoning contained in the following paragraphs of the Judgment, which are inseparable from the operative clause¹⁴⁵:

¹⁴¹ *Request for Interpretation of the Judgment of 15 June 1962 in the Case concerning the Temple of Preah Vihear (Cambodia v. Thailand) (Cambodia v. Thailand), Judgment I.C.J. Reports 2013*, p. 306, para. 66.

¹⁴² Judgment, p. 102, para. 300(3).

¹⁴³ *Ibid.*, p. 99, para. 291.

¹⁴⁴ *Ibid.*, p. 101, para. 298.

¹⁴⁵ *Request for Interpretation of the Judgment of 11 June 1998 in the Case concerning the Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v. Nigeria), Preliminary Objections (Nigeria v. Cameroon)*,

“293. Malaysia asserts the fact that South Ledge, which lies 1.7 nautical miles from Middle Rocks and 2.2 miles from Pedra Branca/Pulau Batu Puteh, would attach to Middle Rocks rather than to Pedra Branca/Pulau Batu Puteh, for the simple reason that it is located within the territorial sea appertaining to Middle Rocks. Malaysia, citing the following passage from the Judgment in the case concerning *Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar v. Bahrain)*: ‘a coastal State has sovereignty over low-tide elevations which are situated within its territorial sea, since it has sovereignty over the territorial sea itself ...’ (*Merits, Judgment, I.C.J. Reports 2001*, p. 101, para. 204), claims that it has sovereignty over South Ledge.

294. Singapore argues that “contrary to Middle Rocks, South Ledge is a low-tide elevation which, as such, cannot be subject to separate appropriation”. In its support, Singapore also cites a passage from the Judgment in the case concerning *Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar v. Bahrain)*, as confirmed in the recent Judgment of the Court in the case concerning *Territorial and Maritime Dispute between Nicaragua and Honduras in the Caribbean Sea (Nicaragua v. Honduras) (Judgment, I.C.J. Reports 2007*, p. 704, para. 144).

...

297. In view of its previous jurisprudence and the arguments of the Parties, as well as the evidence presented before it, the Court will proceed on the basis of whether South Ledge lies within the territorial waters generated by Pedra Branca/Pulau Batu Puteh, which belongs to Singapore, or within those generated by Middle Rocks, which belongs to Malaysia. In this regard the Court notes that South Ledge falls within the apparently overlapping territorial waters

Judgment, I.C.J. Reports 1999, p. 35, para. 10: “... any request for interpretation must relate to the operative part of the judgment and cannot concern the reasons for the judgment except in so far as these are inseparable from the operative part”. See also *Interpretation of Judgments Nos. 7 and 8 (Factory at Chorzów), Judgment No. 11, 1927, P.C.I.J., Series A, No. 13*, p. 20, where the Permanent Court referred to “a condition essential to the Court’s decision”.

generated by the mainland of Malaysia, Pedra Branca/Pulau Batu Puteh and Middle Rocks.

298. The Court recalls that in the Special Agreement and in the final submissions it has been specifically asked to decide the matter of sovereignty separately for each of the three maritime features. At the same time the Court has not been mandated by the Parties to draw the line of delimitation with respect to the territorial waters of Malaysia and Singapore in the area in question.

299. In these circumstances, the Court concludes that for the reasons explained above sovereignty over South Ledge, as a low-tide elevation, belongs to the State in the territorial waters of which it is located.”¹⁴⁶

4.34 It is clear from the above extracts that the Court expressly refrained from deciding on whether South Ledge falls within the territorial waters of Singapore or Malaysia, as this would have involved engaging in maritime delimitation, which the Court had not been mandated to do.

4.35 The Judgment in fact completely contradicts Malaysia’s assertions that the Court specified a “formula”, the application of which “naturally leads to the conclusion that Malaysia has sovereignty over South Ledge”¹⁴⁷. Moreover, by asking the Court to rule that South Ledge belongs to it, before the Parties have even completed delimitation of the area, Malaysia is putting the cart before the horse. While the Judgment stated that sovereignty over South Ledge belongs to the State in the territorial waters of which it is located – *i.e.*, depends on maritime delimitation – Malaysia’s new argument reverses the order of things by contending that the Court effectively found that Malaysia has sovereignty over South Ledge and that delimitation should consequently be based on that fact. The argument has no merit whatsoever.

¹⁴⁶ Judgment, pp. 99-101, paras. 293-299.

¹⁴⁷ Request for Interpretation, para. 46.

- 4.36 The Court decided on sovereignty over South Ledge without any uncertainty: since both Pedra Branca and Middle Rocks are without any doubt entitled to at least some territorial sea, South Ledge necessarily lies in one or the other State's territorial sea, a matter that the Court could not decide according to the terms of the Special Agreement. Had it done so, it would have decided *ultra petita* in contradistinction with the principle of consent to the Court's jurisdiction¹⁴⁸. The Court must of course bear in mind this cardinal principle when exercising its power under Article 60 of the Statute of the Court¹⁴⁹.
- 4.37 In fact, the relevant parts of the reasoning of the Court also show that Malaysia made arguments in the original case which are similar to what it is making now, concerning the proximity of South Ledge to Malaysia's mainland and Middle Rocks. Having considered these arguments, the Court declined to decide whether South Ledge lies in Singapore's or Malaysia's territorial waters.
- 4.38 Malaysia's submission that the Court declare that "South Ledge is located in the territorial waters of Malaysia"¹⁵⁰ asks the Court to rule on the extent of Singapore's and Malaysia's territorial seas surrounding Pedra Branca and

¹⁴⁸ *Arrest Warrant of 11 April 2000 (Democratic Republic of the Congo v. Belgium)*, Judgment, I.C.J. Reports 2002, pp. 18-19, para. 43; *Request for Interpretation of the Judgment of 20 November 1950 in the Asylum Case (Colombia v. Peru)*, Judgment, I.C.J. Reports 1950, p. 402. See also, *Request for Interpretation of the Judgment of 15 June 1962 in the Case concerning the Temple of Preah Vihear (Cambodia v. Thailand) (Cambodia v. Thailand)*, Judgment, I.C.J. Reports 2013, p. 307, para. 71.

¹⁴⁹ *Request for Interpretation of the Judgment of 15 June 1962 in the Case concerning the Temple of Preah Vihear (Cambodia v. Thailand) (Cambodia v. Thailand)*, Judgment, I.C.J. Reports 2013, p. 307, para. 75. See also *Application for Revision and Interpretation of the Judgment of 24 February 1982 in the Case concerning the Continental Shelf (Tunisia/Libyan Arab Jamahiriya) (Tunisia v. Libyan Arab Jamahiriya)*, Judgment, I.C.J. Reports 1985, p. 217, para. 44; *Request for Interpretation of the Judgment of 20 November 1950 in the Asylum Case (Colombia v. Peru)*, Judgment, I.C.J. Reports 1950, p. 402.

¹⁵⁰ Request for Interpretation, para. 56(b).

Middle Rocks respectively. But this was simply not decided, and could not be decided, by the Court, since nothing in the Special Agreement sought any ruling on the delimitation of the waters around these features. What Malaysia is in fact doing is, under the guise of interpretation of the Judgment, appealing against, or seeking to revise, the Judgment. As the Court has emphasised previously, “[i]nterpretation can in no way go beyond the limits of the Judgment”¹⁵¹. It follows that, “[s]o far as the [Malaysian] request for interpretation may go further, and seek ‘to obtain an answer to questions not so decided’, or to achieve a revision of the Judgment, no effect can be given to it”¹⁵².

4.39 For this reason, the second submission is also inadmissible.

C. Conclusions on Malaysia’s Second Submission

4.40 As with Malaysia’s first submission, there is no jurisdictional basis for its second submission for interpretation. The facts demonstrate that there is no dispute between the Parties over the Court’s holding that sovereignty over South Ledge belongs to the State in the territorial waters of which it is located.

4.41 Malaysia’s second submission is also inadmissible. By deciding that “sovereignty over South Ledge belongs to the State in the territorial waters of which it is located”, the Court had fully discharged the mandate conferred upon it by the Parties. There is no ambiguity in that decision. The Court’s ruling means exactly what it says, and Malaysia’s backdoor attempt to appeal

¹⁵¹ *Request for Interpretation of the Judgment of 20 November 1950 in the Asylum Case (Colombia v. Peru), Judgment, I.C.J. Reports 1950*, p. 403.

¹⁵² *Application for Revision and Interpretation of the Judgment of 24 February 1982 in the Case concerning the Continental Shelf (Tunisia/Libyan Arab Jamahiriya) (Tunisia v. Libyan Arab Jamahiriya), Judgment, I.C.J. Reports 1985*, p. 223, para. 56.

against or revise the Judgment under the guise of a request for interpretation should be rejected.

SUMMARY OF SINGAPORE'S REASONING

1. In accordance with the Court's Practice Direction II, Singapore presents a short summary of the reasoning developed in these Written Observations.
2. Malaysia has failed to meet the jurisdictional and admissibility requirements for a request for interpretation of the Judgment under Article 60 of the Statute of the Court and Article 98, paragraph 2 of the Rules of Court.
3. The Court has no jurisdiction over the Request for Interpretation because there is nothing in the conduct or the statements of the Parties in the period following the release of the Judgment, and in particular during the discussions of the MSJTC, which demonstrates the genuine existence of a dispute over the meaning or scope of the Judgment:
 - (a) The first paragraph of the operative clause of the Judgment is clear: sovereignty over Pedra Branca belongs to Singapore. There is no dispute over that holding, and the Parties have always proceeded on the common basis that, given this clear ruling, the next step is for the Parties to commence maritime delimitation in view of the overlapping maritime and airspace entitlements of the Parties in the area.
 - (b) In respect of the third paragraph of the operative clause of the Judgment, there has likewise been no dispute between the Parties that sovereignty over South Ledge will flow from maritime boundary delimitation. This follows from the Court's reasoning in paragraphs 293 to 299 of the Judgment, and its clear ruling that South Ledge, as a low-tide elevation, belongs to the State in the territorial waters of which it is located.

4. While the Parties may disagree on the extent of their maritime and airspace entitlements, this is not a disagreement over the meaning or scope of the Judgment.
5. Furthermore, the Request for Interpretation is inadmissible because Malaysia's real purpose in submitting the Request for Interpretation is not to seek an interpretation of matters which the Court has decided with binding force, but to seek answers to questions not so decided:
 - (a) The first paragraph of the operative clause of the Judgment only addresses sovereignty over Pedra Branca and nothing more. By seeking a declaration that "[t]he waters surrounding Pedra Branca/Pulau Batu Puteh remain within the territorial waters of Malaysia", Malaysia is asking the Court to rule on the delimitation of the waters around Pedra Branca, something that the Court was not mandated to do under the Special Agreement and did not do in the Judgment.
 - (b) By seeking a declaration that "South Ledge is located in the territorial waters of Malaysia, and consequently sovereignty over South Ledge belongs to Malaysia", Malaysia is also asking the Court to decide on maritime delimitation, something that the Court was not mandated to do under the Special Agreement, and expressly declined to do in the Judgment.
6. The first and third paragraphs of the operative clause of the Judgment are clear and require no interpretation. The Request for Interpretation is nothing more than another attempt by Malaysia to institute a backdoor appeal against, and a revision of, the Judgment, in order to overturn those aspects of the Judgment which Malaysia considers unfavourable to itself.

SUBMISSION

For the reasons set out above, and reserving the right to amend or add to these submissions, the Republic of Singapore requests the Court to adjudge and declare that the Court has no jurisdiction to consider the Request for Interpretation and that the Request for Interpretation is inadmissible, and accordingly that Malaysia's submissions at paragraph 56 of the Request for Interpretation are rejected.

Attorney-General Lucien Wong
Agent for the Government of the Republic of Singapore

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CERTIFICATION

I have the honour to certify that the documents annexed to these Written Observations are true copies and conform to the original documents and that the translations provided are accurate.

Attorney-General Lucien Wong
Agent for the Government of the Republic of Singapore

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Appendix 1

Meetings of the Malaysia-Singapore Joint Technical Committee
and its Sub-Committees

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Appendix 1

Meetings of the MSJTC and its Sub-Committees

Date	Meeting	Annex to these Written Observations
16 May 2008	Meeting between Malaysia and Singapore before the release of the Judgment	1
3 Jun 2008	First MSJTC Meeting First Joint Survey Works Sub-Committee Meeting	18 18 (at Annex D)
19-20 Aug 2008	Second Joint Survey Works Sub-Committee Meeting	21 (at Annex D)
20 Aug 2008	Second MSJTC Meeting	21
11-12 Sep 2008	Third Joint Survey Works Sub-Committee Meeting	26
5 Jan 2010	Third MSJTC Meeting First Maritime & Airspace Management and Fisheries Meeting Fourth Joint Survey Works Sub-Committee Meeting	46 46 (at Annex F) 47
23-24 Feb 2010	Fifth Joint Survey Works Sub-Committee Meeting	51
1 Apr 2010	Sixth Joint Survey Works Sub-Committee Meeting	52
13-14 May 2010	Seventh Joint Survey Works Sub-Committee Meeting	53 ¹⁵³

¹⁵³ Appendices G, H and I within **Annex 53** attached to these **Written Observations** have been omitted due to their length.

Date	Meeting	Annex to these Written Observations
15-16 Jul 2010	Eighth Joint Survey Works Sub-Committee Meeting	54
26 Jul 2010	Ninth Joint Survey Works Sub-Committee Meeting Second Maritime & Airspace Management and Fisheries Meeting	57 57 (at Annex E)
26-27 Jul 2010	Fourth MSJTC Meeting	58
29-30 Nov 2010	Fifth MSJTC Meeting Tenth Joint Survey Works Sub-Committee Meeting	64 65
13 Dec 2010	Eleventh Joint Survey Works Sub-Committee Meeting	68
14-15 Feb 2011	Twelfth Joint Survey Works Sub-Committee Meeting	69 ¹⁵⁴
18-19 Mar 2011	Thirteenth Joint Survey Works Sub-Committee Meeting	70
20 Jul 2011	Fourteenth Joint Survey Works Sub-Committee Meeting	71 ¹⁵⁵
22-23 Feb 2012	Sixth MSJTC Meeting Third Maritime & Airspace Management and Fisheries Meeting	83 83 (at para. 5)
28-29 Nov 2013	Seventh MSJTC Meeting	-

¹⁵⁴ Appendices F and G within **Annex 69 attached to these Written Observations** have been omitted due to their length.

¹⁵⁵ Appendices F, G, H and J within **Annex 71 attached to these Written Observations** have been omitted due to their length.

Appendix 2

List of media reports containing statements by Malaysia which set out its position regarding South Ledge

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Appendix 2

The following is a list of media reports containing statements by Malaysia which set out its position regarding South Ledge:

1. Report dated 23 May 2008 by *Berita Nasional Malaysia (Bernama)*, “ICJ Verdict a “Win-Win” Outcome for M’sia and S’pore, says Rais”, on comments made by Malaysia’s Foreign Minister, Dr Rais Yatim, attached as **Annex 4 to these Written Observations**.

Relevant extracts

“On South Ledge, Dr Rais said the court said its sovereignty was subject to its location in the territorial waters of the country concerned. “This may be an issue which has to be taken up together by Singapore and Malaysia to determine the sovereignty status of the island,” he said in an interview televised live by RTM from The Hague.”

2. Report dated 24 May 2008 by *New Straits Times*, “1953 Johor letter ‘hands’ island to Singapore (HL)”, on comments made by Malaysia’s Foreign Minister, Dr Rais Yatim, attached as **Annex 8 to these Written Observations**.

Relevant extracts

“Foreign Minister Datuk Seri Dr Rais Yatim called it a “win-win” ruling since each side won a partial victory. “Resolving such disputes through the rule of law,” he said, “will make the world safer.” He said the two countries would establish a committee to determine ownership of South Ledge, which lies in overlapping territorial waters.”

3. Report dated 24 May 2008 by *The Star*, “A sad Abdullah accepts ICJ ruling”, on comments made by Malaysia’s Prime Minister, Abdullah Badawi, attached as **Annex 7 to these Written Observations**.

Relevant extracts

“He said Malaysia was grateful that the ICJ had awarded Middle Rocks to the nation, adding that the next step was for officials from both sides to meet to decide on the maritime demarcation line as soon as possible.

“Any discussion to be held or action to be taken with Singapore must be done in a peaceful manner and with understanding from both sides. We do not want any conflict to arise,” he stressed.

The Prime Minister also said that action must also be taken to determine the location of South Ledge. “We need to determine the demarcation line to show that South Ledge is in our waters,” he added.”

4. Report dated 25 May 2008 by *New Straits Times*, “Doing it the Asean Way”, on comments made by Malaysia’s Foreign Minister, Dr Rais Yatim, attached to as **Annex 11 to these Written Observations.**

Relevant extracts

“Malaysian Foreign Minister Datuk Seri Dr Rais Yatim declared the decision “a win-win outcome for both sides”; and continued that on South Ledge and other related matters, both countries would set up a committee and future announcements would be made through it.”

5. Report dated 25 May 2008 by *The Star*, “Don’t go to Middle Rocks yet, police warn Malaysians”, on comments made by Malaysia’s Federal Marine Police Commander, SAC II Isa Munir, attached to as **Annex 12 to these Written Observations.**

Relevant extracts

“SAC II Isa added that Malaysia and Singapore had to resolve several issues over Middle Rocks before people could have access there.

“Among these are the boundaries and territorial waters of the two countries.

I strongly advise the public to avoid any unwanted tension with Singapore by going there.”

6. Report dated 26 May 2008 by *New Straits Times*, “Call for joint maritime patrols”, on comments made by Malaysia’s Minister of Home Affairs, Syed Hamid Albar, attached as **Annex 14 to these Written Observations.**

Relevant extracts

““Though Singapore got Batu Puteh, Middle Rocks belongs to us and our fishermen and vessels should not be hindered from going to the area.”

“The technical committee must sit down and figure out the security arrangement and navigation in the area,” Syed Hamid said.

Following the decision by the court on Friday, the government said a bilateral technical committee would be formed to draw up the two countries' maritime borders around Pedra Branca and Middle Rocks.

The committee would also determine which country possessed South Ledge, an outcropping southwest of Pedra Branca and Middle Rocks that is only visible at low tide.”

7. Report dated 3 June 2008 by *The Star*, “Time to move on after decision”, on comments made by Malaysia’s High Commissioner to Singapore, N Parameswaran, attached as **Annex 17 to these Written Observations**.

Relevant extracts

“On the issue of the boundaries and South Ledge – another rock outcrop south of Batu Puteh – Parameswaran said the technical committee would be convening soon to discuss the matter.”

8. Report dated 3 June 2008 by *The Star*, “Proposal on Middle Rocks just a suggestion, says Rais”, on comments made by Malaysia’s Foreign Minister, Dr Rais Yatim, attached as **Annex 19 to these Written Observations**.

Relevant extracts

“Rais said that he would be presenting a report to Cabinet on Wednesday as a follow-up to the judgment in The Hague last month where Malaysia got back part of the “contentious domain”, adding one of the main activities was to determine the territorial waters of Middle Rocks by experts.

“This may take a while as we must take cognisance of the rights of Singapore as well, being a very close neighbour of Middle Rocks. We would also like to map out territorial areas of Middle Rocks, vis-a-vis the distance of the outcrop to South Ledge.

“This is important because according to the ICJ, South Ledge should be in the territorial waters of the state that be or the state that owns it and most probably, according to logical assumption, South Ledge could be in the territorial waters of Middle Rocks,” he said.”

9. Report dated 4 June 2008 by *New Straits Times*, “New dimension to Middle Rocks”, on comments made by Malaysia’s Foreign Minister, Dr Rais Yatim, attached as **Annex 20 to these Written Observations**.

Relevant extracts

“He said the ministry's technical committee in a follow up to the ICJ judgment had compiled information and data on Middle Rocks and its territorial waters, but will need to enlist further help from experts as to the kind of activities that can be undertaken there, and the exact boundary lines to mark the surrounding territory.

The ownership of another marine feature, South Ledge, has yet to be fully determined, although, Rais said, it would seem that it lay in the territorial waters of Middle Rocks.

“We need to map out the territorial area, vis-a-vis the distance from Middle Rocks to South Ledge.

“According to the ICJ, South Ledge should be in the territorial waters of the state that owns it (the waters), and according to logical assumption, South Ledge could be in the territorial waters of Middle Rocks.”

He said fishermen were still advised to stay away from Middle Rocks until the boundaries were finalised with Singapore.”

10. Report dated 6 February 2010 by *Utusan Malaysia*, “Malaysia pertahankan kedaulatan Tubir Selatan” (translated into English as: “Malaysia defends sovereignty over South Ledge”), on comments made by Malaysia’s Deputy Foreign Minister, A. Kohilan Pillay, attached as **Annex 49 to these Written Observations.**

Relevant extracts

“Deputy Foreign Minister, A. Kohilan Pillay said that negotiations are underway with Singapore and are expected to take some time before a final decision is reached.

“Respectively Malaysia and Singapore want to claim their ownership rights over South Ledge.

“South Ledge is a rock that only emerges at low tide, it is situated in the overlapping area in the waters of Malaysia and Singapore,” he said when contacted by *Utusan Malaysia* here today.

The International Court of Justice (ICJ) in The Hague, Netherlands had last year ruled Pedra Branca as belonging to Singapore whereas Middle Rocks would belong to Malaysia.

The status of another maritime formation, South Ledge, however has been granted to whichever country whose territorial waters the formation lies in.

With regard to that, Malaysia and Singapore need to detail the waters between Pedra Branca and Middle Rocks as well as South Ledge through the Technical Committee.”

11. Report dated 19 February 2010 by *Utusan Malaysia*, “Wisma Putra jawab isu Tubir Selatan dengan Singapura” (translated into English as: “*Wisma Putra replies about South Ledge issue with Singapore*”), on comments made by the Chief Director of Research, Treaty and International Law of Malaysia’s Ministry of Foreign Affairs, Datuk Noor Farida Ariffin, attached as **Annex 50 to these Written Observations**.

Relevant extracts

“PUTRAJAYA 18 Feb. – Malaysia and Singapore need to carry out measuring works before determining the sovereignty of South Ledge in south Johor.

This was confirmed by the Chief Director of Research, Treaty and International Law of the Foreign Ministry, Datuk Noor Farida Ariffin in reply to the issue concerning the sovereignty of the rocky outcrop which only emerges when the tide is low.

She informed that even though geographical fact shows that South Ledge is situated in the national waters and is nearest to the Middle Rocks, nevertheless Kuala Lumpur would continue with negotiations based on the spirit of neighbourliness and friendship with Singapore.

“Negotiations are needed to prove that Malaysia has sovereignty over South Ledge.

“This is one of the things that are contained in the Malaysia-Singapore Joint Technical Committee’s meeting agenda,” she said in a statement here today.”

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Appendix 3

List of diplomatic notes and correspondence in which Malaysia
set out its position regarding South Ledge

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Appendix 3

The following is a list of diplomatic notes and correspondence in which Malaysia set out its position regarding South Ledge:

1. Note Verbale from the Ministry of Foreign Affairs, Malaysia to the High Commission of the Republic of Singapore in Kuala Lumpur, EC 52/2008, dated 29 October 2008, Request for Interpretation, Annex 7;
2. Note Verbale from the Ministry of Foreign Affairs, Malaysia to the High Commission of the Republic of Singapore in Kuala Lumpur, EC 54/2008, dated 29 October 2008, Request for Interpretation, Annex 8;
3. Diplomatic note from Malaysia to Singapore, EC 07/2009, dated 6 February 2009, attached as **Annex 29 to these Written Observations**;
4. Diplomatic note from Malaysia to Singapore, EC 08/2009, dated 6 February 2009, attached as **Annex 30 to these Written Observations**;
5. Diplomatic note from Malaysia to Singapore, EC 09/2009, dated 6 February 2009, attached as **Annex 31 to these Written Observations**;
6. Diplomatic note from Malaysia to Singapore, EC 10/2009, dated 6 February 2009, attached as **Annex 32 to these Written Observations**;
7. Diplomatic note from Malaysia to Singapore, EC 11/2009, dated 6 February 2009, attached as **Annex 33 to these Written Observations**;
8. Diplomatic note from Malaysia to Singapore, EC 12/2009, dated 6 February 2009, attached as **Annex 34 to these Written Observations**;
9. Note Verbale from the Ministry of Foreign Affairs, Malaysia to the High Commission of the Republic of Singapore in Kuala Lumpur, EC 22/2009, dated 12 March 2009, Request for Interpretation, Annex 9;
10. Note Verbale from the Ministry of Foreign Affairs, Malaysia to the High Commission of the Republic of Singapore in Kuala Lumpur, EC 30/2009, dated 2 April 2009, Request for Interpretation, Annex 10;

11. Note Verbale from the Ministry of Foreign Affairs, Malaysia to the High Commission of the Republic of Singapore in Kuala Lumpur, EC 73/2009, dated 3 July 2009, Request for Interpretation, Annex 11;
12. Note Verbale from the Ministry of Foreign Affairs, Malaysia to the High Commission of the Republic of Singapore in Kuala Lumpur, EC 75/2009, dated 3 July 2009, Request for Interpretation, Annex 12;
13. Note Verbale from the Ministry of Foreign Affairs, Malaysia to the High Commission of the Republic of Singapore in Kuala Lumpur, EC 116/2009, dated 7 October 2009 Request for Interpretation, Annex 14;
14. Note Verbale from the Ministry of Foreign Affairs, Malaysia to the High Commission of the Republic of Singapore in Kuala Lumpur, EC 117/2009, dated 7 October 2009, Request for Interpretation, Annex 15;
15. Note Verbale from the Ministry of Foreign Affairs, Malaysia to the High Commission of the Republic of Singapore in Kuala Lumpur, EC 118/2009, dated 7 October 2009, Request for Interpretation, Annex 16;
16. Note Verbale from the Ministry of Foreign Affairs, Malaysia to the High Commission of the Republic of Singapore in Kuala Lumpur, EC 119/2009, dated 7 October 2009, Request for Interpretation, Annex 17;
17. Letter from Malaysia's Secretary General, Ministry of Foreign Affairs, Rastam Mohd Isa to Singapore's Permanent Secretary, Ministry of Foreign Affairs, Peter Ho, dated 23 November 2009, attached as **Annex 43 to these Written Observations**;
18. Note Verbale from the Ministry of Foreign Affairs, Malaysia to the High Commission of the Republic of Singapore in Kuala Lumpur, EC 88/2010, dated 15 June 2010, Request for Interpretation, Annex 18;
19. Note Verbale from the Ministry of Foreign Affairs, Malaysia to the High Commission of the Republic of Singapore in Kuala Lumpur, EC 89/2010, dated 15 June 2010, Request for Interpretation, Annex 19;
20. Note Verbale from the Ministry of Foreign Affairs, Malaysia to the High Commission of the Republic of Singapore in Kuala Lumpur, EC 90/2010, dated 15 June 2010, Request for Interpretation, Annex 20;

21. Note Verbale from the Ministry of Foreign Affairs, Malaysia to the High Commission of the Republic of Singapore in Kuala Lumpur, EC 91/2010, dated 15 June 2010, Request for Interpretation, Annex 21;
22. Note Verbale from the Ministry of Foreign Affairs, Malaysia to the High Commission of the Republic of Singapore in Kuala Lumpur, EC 92/2010, dated 15 June 2010, Request for Interpretation, Annex 22;
23. Note Verbale from the Ministry of Foreign Affairs, Malaysia to the High Commission of the Republic of Singapore in Kuala Lumpur, EC 93/2010, dated 15 June 2010, Request for Interpretation, Annex 23;
24. Letter from Malaysia's Secretary General, Ministry of Foreign Affairs, Rastam Mohd Isa to Singapore's Permanent Secretary, Ministry of Foreign Affairs, Peter Ho, dated 6 August 2010, sent under cover of diplomatic note from Malaysia to Singapore, EC 123/2010, dated 11 August 2010, attached as **Annex 59 to these Written Observations**;
25. Note Verbale from the Ministry of Foreign Affairs, Malaysia to the High Commission of the Republic of Singapore in Kuala Lumpur, EC 141/2010, dated 22 September 2010, Request for Interpretation, Annex 24;
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29. Note Verbale from the Ministry of Foreign Affairs, Malaysia to the High Commission of the Republic of Singapore in Kuala Lumpur, EC 145/2010, dated 22 September 2010, Request for Interpretation, Annex 28;
30. Diplomatic note from Malaysia to Singapore, EC 162/2010, dated 1 November 2010, attached as **Annex 60 to these Written Observations**;
31. Diplomatic note from Malaysia to Singapore, EC 163/2010, dated 1 November 2010, attached as **Annex 61 to these Written Observations**;
32. Diplomatic note from Malaysia to Singapore, EC 165/2010, dated 1 November 2010, attached as **Annex 62 to these Written Observations**;
33. Diplomatic note from Malaysia to Singapore, EC 166/2010, dated 1 November 2010, attached as **Annex 63 to these Written Observations**;
34. Note Verbale from the Ministry of Foreign Affairs, Malaysia to the High Commission of the Republic of Singapore in Kuala Lumpur, EC 169/2010, dated 1 November 2010, Request for Interpretation, Annex 29;
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37. Note Verbale from the Ministry of Foreign Affairs, Malaysia to the High Commission of the Republic of Singapore in Kuala Lumpur, EC 99/2011, dated 29 June 2011, Request for Interpretation, Annex 32;
38. Diplomatic note from Malaysia to Singapore, EC 105/2011, dated 7 July 2011, attached as **Annex 72 to these Written Observations**;

39. Diplomatic note from Malaysia to Singapore, EC 106/2011, dated 7 July 2011, attached as **Annex 73 to these Written Observations**;
40. Diplomatic note from Malaysia to Singapore, EC 115/2011, dated 4 August 2011, attached as **Annex 75 to these Written Observations**;
41. Diplomatic note from Malaysia to Singapore, EC 123/2011, dated 22 August 2011, attached as **Annex 76 to these Written Observations**;
42. Diplomatic note from Malaysia to Singapore, EC 125/2011, dated 22 August 2011, attached as **Annex 77 to these Written Observations**;
43. Diplomatic note from Malaysia to Singapore, EC 147/2011, dated 30 September 2011, attached as **Annex 78 to these Written Observations**;
44. Diplomatic note from Malaysia to Singapore, EC 16/2012, dated 14 February 2012, attached as **Annex 81 to these Written Observations**;
45. Diplomatic note from Malaysia to Singapore, EC 17/2011, dated 14 February 2012, attached as **Annex 82 to these Written Observations**;
46. Diplomatic note from Malaysia to Singapore, EC 6/2014, dated 27 January 2014, attached as **Annex 89 to these Written Observations**;
47. Diplomatic note from Malaysia to Singapore, EC 10/2014, dated 28 January 2014, attached as **Annex 90 to these Written Observations**;
48. Diplomatic note from Malaysia to Singapore, EC 12/2014, dated 29 January 2014, attached as **Annex 91 to these Written Observations**;
49. Diplomatic note from Malaysia to Singapore, EC 15/2014, dated 30 January 2014, attached as **Annex 92 to these Written Observations**;
50. Diplomatic note from Malaysia to Singapore, EC 16/2014, dated 4 February 2014, attached as **Annex 93 to these Written Observations**;

51. Diplomatic note from Malaysia to Singapore, EC 19/2014, dated 5 February 2014, attached as **Annex 94 to these Written Observations;**
52. Diplomatic note from Malaysia to Singapore, EC 21/2014, dated 6 February 2014, attached as **Annex 95 to these Written Observations;**
and
53. Diplomatic note from Malaysia to Singapore, EC 23/2014, dated 7 February 2014, attached as **Annex 96 to these Written Observations.**

Appendix 4

List of diplomatic notes and correspondence in which Singapore
set out its position regarding South Ledge

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Appendix 4

The following is a list of diplomatic notes and correspondence in which Singapore set out its position regarding South Ledge:

1. Diplomatic note from Singapore to Malaysia, MFA/SEA/00044/2008, dated 9 December 2008, attached as **Annex 28 to these Written Observations**;
2. Diplomatic note from Singapore to Malaysia, MFA/SEA/00018/2009, dated 20 April 2009, attached as **Annex 35 to these Written Observations**;
3. Diplomatic note from Singapore to Malaysia, MFA/SEA/00030/2009, dated 3 September 2009, attached as **Annex 36 to these Written Observations**;
4. Diplomatic note from Singapore to Malaysia, MFA/SEA/00033/2009, dated 9 October 2009, attached as **Annex 37 to these Written Observations**;
5. Letter from Singapore's Permanent Secretary, Ministry of Foreign Affairs, Peter Ho to Malaysia's Secretary General, Ministry of Foreign Affairs, Rastam Mohd Isa, dated 12 October 2009, attached as **Annex 38 to these Written Observations**;
6. Diplomatic note from Singapore to Malaysia, MFA/SEA/00034/2009, dated 12 October 2009, attached as **Annex 39 to these Written Observations**;
7. Diplomatic note from Singapore to Malaysia, MFA/SEA/00036/2009, dated 20 October 2009, attached as **Annex 40 to these Written Observations**;
8. Diplomatic note from Singapore to Malaysia, MFA/SEA/00038/2009, dated 27 October 2009, attached as **Annex 41 to these Written Observations**;

9. Diplomatic note from Singapore to Malaysia, MFA/SEA/00040/2009, dated 5 November 2009, attached as **Annex 42 to these Written Observations**;
10. Diplomatic note from Singapore to Malaysia, MFA/SEA/00045/2009, dated 25 November 2009, attached as **Annex 44 to these Written Observations**;
11. Letter from Singapore's Permanent Secretary, Ministry of Foreign Affairs, Peter Ho to Malaysia's Secretary General, Ministry of Foreign Affairs, Rastam Mohd Isa, dated 10 December 2009, attached as **Annex 45 to these Written Observations**;
12. Note Verbale from the Ministry of Foreign Affairs of the Republic of Singapore to the High Commission of Malaysia, Singapore, MFA/SEA/00003/2010, dated 30 March 2010, Request for Interpretation, Annex 120;
13. Note Verbale from the Ministry of Foreign Affairs of the Republic of Singapore to the High Commission of Malaysia, Singapore, MFA/SEA/00008/2010, dated 31 May 2010, Request for Interpretation, Annex 102;
14. Note Verbale from the Ministry of Foreign Affairs of the Republic of Singapore to the High Commission of Malaysia, Singapore, MFA/SEA/00012/2010, dated 15 June 2010, Request for Interpretation, Annex 103;
15. Diplomatic note from Singapore to Malaysia, MFA/SEA/00030/2010, dated 19 July 2010, attached as **Annex 55 to these Written Observations**;
16. Letter from Singapore's Permanent Secretary, Ministry of Foreign Affairs, Peter Ho to Malaysia's Secretary General, Ministry of Foreign Affairs, Rastam Mohd Isa, dated 23 July 2010, attached as **Annex 56 to these Written Observations**;
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18. Note Verbale from the Ministry of Foreign Affairs of the Republic of Singapore to the High Commission of Malaysia, Singapore, SEA/00003/2010(1), dated 11 February 2011, Request for Interpretation, Annex 99;
19. Note Verbale from the Ministry of Foreign Affairs of the Republic of Singapore to the High Commission of Malaysia, Singapore, SEA/00005/2010, dated 11 February 2011, Request for Interpretation, Annex 100;
20. Note Verbale from the Ministry of Foreign Affairs of the Republic of Singapore to the High Commission of Malaysia, Singapore, MFA/SEA/00010/2011, dated 29 April 2011, Request for Interpretation, Annex 105;
21. Note Verbale from the Ministry of Foreign Affairs of the Republic of Singapore to the High Commission of Malaysia, Singapore, MFA/SEA/00013/2011, dated 15 July 2011, Request for Interpretation, Annex 106;
22. Diplomatic note from Singapore to Malaysia, MFA/SEA/00015/2011, dated 15 July 2011, attached as **Annex 74 to these Written Observations**;
23. Note Verbale from the Ministry of Foreign Affairs of the Republic of Singapore to the High Commission of Malaysia, Singapore, MFA/SEA/00036/2011, dated 6 September 2011, Request for Interpretation, Annex 107;
24. Diplomatic note from Singapore to Malaysia, MFA/SEA/00048/2011, dated 17 November 2011, attached as **Annex 79 to these Written Observations**;
25. Diplomatic note from Singapore to Malaysia, MFA/SEA/00056/2011, dated 29 December 2011, attached as **Annex 80 to these Written Observations**;

26. Diplomatic note from Singapore to Malaysia, MFA/SEA/00030/2012, dated 27 April 2012, attached as **Annex 84 to these Written Observations**;
27. Note Verbale from the Ministry of Foreign Affairs of the Republic of Singapore to the High Commission of Malaysia, Singapore, MFA/SEA1/00001/2012, dated 2 May 2012, Request for Interpretation, Annex 108;
28. Note Verbale from the Ministry of Foreign Affairs of the Republic of Singapore to the High Commission of Malaysia, Singapore, MFA/SEA1/00006/2012, dated 28 May 2012, Request for Interpretation, Annex 109;
29. Diplomatic note from Singapore to Malaysia, MFA/SEA1/00019/2012, dated 24 August 2012, Request for Interpretation, Annex 110. As the copy of the document annexed by Malaysia is unclear, a clear copy is attached as **Annex 85 to these Written Observations**;
30. Diplomatic note from Singapore to Malaysia, MFA/SEA1/00022/2012, dated 11 September 2012, Request for Interpretation, Annex 111. As the copy of the document annexed by Malaysia is incomplete, a complete copy is attached as **Annex 86 to these Written Observations**;
31. Note Verbale from the Ministry of Foreign Affairs of the Republic of Singapore to the High Commission of Malaysia, Singapore, MFA/SEA1/00027/2012, dated 1 November 2012, Request for Interpretation, Annex 112;
32. Note Verbale from the Ministry of Foreign Affairs of the Republic of Singapore to the High Commission of Malaysia, Singapore, MFA/SEA1/00002/2013, dated 11 January 2013, Request for Interpretation, Annex 113;
33. Note Verbale from the Ministry of Foreign Affairs of the Republic of Singapore to the High Commission of Malaysia, Singapore, MFA/SEA1/00026/2013, dated 3 June 2013, Request for Interpretation, Annex 114;
34. Note Verbale from the Ministry of Foreign Affairs of the Republic of Singapore to the High Commission of Malaysia, Singapore,

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37. Note Verbale from the Ministry of Foreign Affairs of the Republic of Singapore to the High Commission of Malaysia, Singapore, MFA/SEA/00002/2014, dated 7 January 2014, Request for Interpretation, Annex 117;
38. Diplomatic note from Singapore to Malaysia, MFA/SEA1/00030/2014, dated 8 April 2014, attached as **Annex 98 to these Written Observations**;
39. Note Verbale from the Ministry of Foreign Affairs of the Republic of Singapore to the High Commission of Malaysia, Singapore, MFA/SEA1/00042/2014, dated 22 July 2014, Request for Interpretation, Annex 118;
40. Diplomatic note from Singapore to Malaysia, MFA/SEA1/00093/2014, dated 2 December 2014, attached as **Annex 101 to these Written Observations**; and
41. Note Verbale from the Ministry of Foreign Affairs of the Republic of Singapore to the High Commission of Malaysia, Singapore, MFA/SEA/00041/2016, dated 30 September 2016, Request for Interpretation, Annex 119.

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