

IN THE INTERNATIONAL COURT OF JUSTICE

MALAYSIA,)
JOINT APPLICANT)
WITH)
SINGAPORE,)
JOINT APPLICANT)

MEMORIAL OF THE FEDERATION OF MALAYSIA

COMES NOW the Federation of Malaysia and for their Memorial to the Court
states the following:

STATEMENT OF LAW

1. The Johor Riau-Lingga Sultanate was founded in the 16th century. The territory of the Sultanate encompassed the island of Pulau Batu Puteh.
2. On August 2, 1824, Singapore became a British colony when Sultan Hussein, the ruler of Johor and Singapore agreed to cede the island and the ten nautical miles that surround it to the British East Indian Company "in perpetuity".
3. After the Japanese occupation from 1941-1945, the British created the Malayan Union which emerged into the Federation of Malaysia and gained independence from the British on August 31, 1957. The Federation of Malaysia consisted of Malaya, Sarawak, Sabah, and Singapore.
4. Singapore seceded from the Federation of Malaysia on August 6, 1965.

5. The International Court of Justice has stated that the administration of lighthouses and navigational aids does not necessarily exhibit State authority.

6. International Law also dictates that acts done by disputing parties that will aid their case in the International Court should not influence the final ruling. The court acted accordingly to this statute in Malaysia's previous dispute with Indonesia over the islands of Sipadan and Ligitan where the court disregarded all activity on the islands after 1969 when the dispute materialized.

STATEMENT OF FACT

Pualu Batu Puteh was originally a part of the Johor Sultanate. During British colonialization, Malaysia and its colonial ruler assumed sovereignty over the island. In 1824, the Sultan of Johor bestowed Singapore and the ten nautical miles that surround it to the East Indian Company; this area does not include Pulau Batu Puteh, Middle Rocks, or South Ledge which lie 25 nautical miles from the coast of Singapore. In 1844, the Sultan of Johor allowed the British to construct the Horsburgh Lighthouse on the island; the sultan merely gave the British the permission to construct and administer the lighthouse. When Singapore gained independence in 1965, they took responsibility over their navigational control duties from the British along with the duty of up keeping the Horsburgh Lighthouse. Malaysia restated their claim to Pualu Batu Puteh, Middle Rocks, and South Ledge through the publication of a map in 1979 which showed the islands as Malaysian. Singapore protested in 1980. Around ten years after the disagreement surfaced, Singapore built a radar facility and a helipad on Pualu Batu Puteh in 1989 and 1991 respectively.

STATEMENT OF JURISIDICION

Though both Malaysia and Singapore have not previously made declarations recognizing the compulsory jurisdiction of the court, the two nations have agreed to join in a special agreement to settle the dispute over the sovereignty of Pulau Puteh, Middle Rocks, and South Ledge. The special agreement was signed by both parties at Putrajaya on February 7, 2003. The agreement was formally ratified by both Malaysia and Singapore on May 9, 2003. In cooperation, the nations have agreed to respect decisions made by the International Court of Justice regarding territorial disputes.

ARRGUMENTS

I. Malaysia's authority to rule Pulau Balu Puteh, Middle Rocks, and South Ledge.

Malaysia has controlled Pulau Batu Puteh, Middle Rocks, and South Ledge since the 16th century with the foundation of the Johor Riau-Lingga Sultanate. The sovereignty of the Sultanate has been undisputed and even recognized by the British who later became the colonial ruler of Malaysia. During the colonial period, Malaysia and Britain ruled over the islands by making and enforcing laws as well as adjudicating disputes.

In 1844, the Sultan of Johor granted the British permission to build the Horsburgh Lighthouse on Pulau Batu Puteh to be used as an aid for the free and safe passage of merchant ships. The Sultan of Johor also allowed the British to administer the island, but all of this was granted solely by permission without turning over legal rule of the island to Britain.

II. Singapore's claim to Pulau Batu Puteh, Middle Rocks, and South Ledge does not have legal grounds.

Singapore was ceded to the East Indian Company in 1824. The territory gained by the company included the island and the 10 surrounding nautical miles. Pulau Batu Puteh, Middle Rocks, and South Ledge were not included in this agreement for the small islands lie 25 nautical miles from the coast of Singapore and only 7.7 miles from Johor. The territory of which the islands in dispute lie was never under the authority of Singapore nor was this territory seceded to Singapore through any chain of title.

Additionally, after Singapore declared independence in 1965, the nation took authority over its navigational control duties as well as taking the responsibility of administering the Horsburgh Lighthouse from the British. Since the British were only granted permission to build and administer the lighthouse, Singapore has no legal authority to claim the island as its territory. To add to this, the ICJ has previously stated that mere operation of lighthouse and other navigational aids do not manifest state authority over that territory.

III. The recent construction on Pulau Batu Puteh by Singapore authorities should not be presented as evidence on behalf of Singapore's case.

The dispute over Pulau Batu Puteh, Middle Rocks, and South Ledge between Malaysia and Singapore commenced with the publication of a Malaysian map in 1979 labeling the islands as Malaysian territory. Singapore protested the claim in 1980. Nine years later, Singapore built a radar facility on Pulau Batu Puteh followed by the construction of a helipad in 1991. Both of these facilities were built years after the dispute

over the island arose. Since international law dictated that acts done by disputing parties in order to advance their own cases shall not influence a final ruling, Singapore should not be allowed to include the construction of these two features as facts that show sovereignty over the islands in question.

SUMMARY AND PRAYER FOR RELIEF

Malaysia has held sovereignty over Pulau Batu Puteh, Middle Rocks, and South Ledge for hundreds of years while Singapore has merely been allowed to administer the Horsburgh Lighthouse on Pulau Batu Puteh. Recent developments on Pulau Batu Puteh should not be considered by the International Court of Justice as evidence to support Singapore's case. Until this dispute is resolved, Malaysia has agreed to avoid confrontation with Singapore on Pulau Batu Puteh. Furthermore, the Federation of Malaysia and Singapore have both agreed to adhere to the court's judgment in this matter.