



American Model United Nations
International Court of Justice

IN THE INTERNATIONAL COURT OF JUSTICE

MALAYSIA/SINGAPORE

MEMORIAL OF MALAYSIA

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

STATEMENT OF LAW

1. International law recognizes three methods of lawfully acquiring territory: discovery, occupation, and conquest.
2. Article II of the Crawford Treaty gave full sovereignty and property of the Island of Singapore along with the adjacent seas, straits and islets to the extent of ten geographical miles, over to the English East India Company.
3. The Straights Settlement (1826) united Penang, Province Wellesley, Malacca, and Singapore, which delegated the East India Company to administer these areas.
4. The Johor Treaty of 1885: provided for overland trade and transit rights for Britain through the Straits of Johor, but permitted only limited British interventions in the internal affairs of Johor. This was a co-operative arrangement that did not eliminate the sovereignty of Johor or change its territorial extent. In this treaty, explicit reference is made to “the independent State of Johor.”
 - a) Article V of the 1885 Johor Treaty provided that the Governor of the Straits Settlements would at all times protect to the utmost of his power the Government and State of Johor from external hostile attacks. For that purpose British officers were given free access to Johor's territorial waters, which, according to the Treaty, extended to 3 nm.
 - b) Article XV included: "...the Sovereignty may not in any manner surrender or make any agreement or plan to surrender the country or any part of the country and State of Johor to any European State or Power, or to any other State or nation.”
5. Territorial Waters Boundary Settlement in 1927 and the later 1973 agreement: Singapore did not assert the prerogative of sovereignty over Pedra Branca.

STATEMENT OF FACT

The ancient kingdom of Johore originally included both the present day countries of Malaysia and Singapore. The Anglo-Dutch Treaty of 1824 split the kingdom so that the Sultanate of Johor encompassed the north into the British sphere of influence, and to the south, the Sultanate of Riau-Lingga, the treaty placed under the Dutch sphere of

influence.

The August following the Anglo-Dutch Treaty of 1824, the English East India Company and the Sultan and Temenggong of Johor concluded the Crawford treaty of alliance. The rulers of Johor relinquished the Island of present day Singapore to the English East India Company.

The Straights settlement, created by the English East India Company, united Penang, Province Wellesley, Malacca, and Singapore in the year 1826 which was given to the Government of British India after the abolition of the East India Company in 1858. Eventually, the Straights settlement evolved into a separate Crown Colony under the Colonial Office in London. After WWII the Colony of the Straits Settlements was divided into separate entities and Singapore was administered as a Crown Colony in its own right. In 1958, Singapore was allotted to become a self-governing colony.

The British recognized Johor, the predecessor to Malaysia, as a political entity beginning in the 16th century. Johor conducted acts of sovereignty over their dominions, including offshore islands. In 1948 a new Federation of Malaya was established, which included Johor.

The Malaysia Agreement signed by the Federation of Malaya, Singapore, Sabah, Sarawak, and notably the United Kingdom, joined Singapore, Sabah, and Sarawak to the Federation of Malaya in summer 1963. Singapore's stay within Malaysia was brief, however, as they separated from the Federation and became an independent Republic on 7 August 1965.

The following facts stand out:

(a) Prior to 1824, the domains of the Sultanate of Johor extended north and south of Singapore Strait and included all the islands in the vicinity of the Strait.

(b) The British and the Dutch divided their spheres of influence in the region through the Anglo-Dutch Treaty of 1824. Pedra Branca remained a territory belonging to the Sultanate of Johor and fell within the British sphere of influence.

(d) Pedra Branca was not included in the Johor ruler's grant of 1824 to the British for the Settlement of Singapore as it is more than ten geographical miles from the Island of Singapore. In fact the British requested permission from Johor every time they sought to visit Pedra Branca.

(e) The many progressions in constitutional developments involving the Straits Settlements, as a Crown Colony to Johor and to the independence of Malaysia and Singapore had no effect on the respective territorial limits of Johor and Singapore. Hence, they did not alter the status of Pedra Branca as an island belonging to Johor, now part of Malaysia.

STATEMENT OF JURISDICTION

On 9 May 2003, both Malaysia and the Republic of Singapore committed to a Special Agreement in which the Parties requested that the International Court of Justice resolve a longstanding territorial dispute over Pedra Branca, Middle Rocks and South Ledge. Malaysia has acceded jurisdiction to the International Court of Justice to intercede in this case. Therefore Malaysia respects and recognizes the International Court of Justice's jurisdiction in this dispute.

ARGUMENTS

1. The location and history of Pedra Branca logically designates it to Malaysia:
 - (a) Pedra Branca lies less than eight nautical miles from Malaysia, whereas its distance from Singapore, which is over 25 nautical miles.
 - (b) The close proximity to Malaysia makes this a matter of national security. Malaysia must have the right to ensure its economic security through control of these islands.
 - (c) Pedra Branca historically belonged to Johor, the state proceeding present day Malaysia.
2. Singapore's claims to Pedra Branca and the three maritime features from the Crawford Treaty are null.
 - (a) Pedra Branca distinctively and clearly fell outside of the area of the 1824 Crawford treaty grant. It is situated 25.5 nautical miles to the east of the Island of Singapore, well beyond the ten-mile limit laid down in the Crawford Treaty. Similarly, Middle Rocks and South Ledge extend even further beyond the ten-mile limit
3. Singapore's claims of ownership derived from British practices of sovereignty on the Islands:
 - (a) Whenever changes were made to the territorial extent of the British settlements, such as in the case of the Cocos Islands and Christmas Island, the British paid special attention to formalize them. Pedra Branca was never dealt with in this way.
 - (b) The Johor Treaty demonstrates that Johor did not give up their sovereignty over the straits of Johor to the British; rather the treaty affirms Johor's sovereignty over the straits by requiring the British to gain admission into the straits from Johor. There is no evidence of any animus to abandon that title by Johor or Malaysia. Nor is there evidence of conduct by Singapore sufficient to displace that title. Singapore's practice prior to 1980 acknowledges Malaysian sovereignty.
4. The British recognized Johor's Sovereignty over Pedra Branca throughout their stay in the area.
 - (a) In 1844, the British sought the permission of the Sultanate of Johor for the construction of a lighthouse (this is the same lighthouse used in Singapore's claim of sovereignty over this island) on Pedra Branca. This is also an argument against the claim that Pedra Branca fell to the British in the Crawford Treaty; had the British recognized Pedra Branca as part of the territory the Sultanate had ceded to them in the 1824 Treaty, the British would not have sought the Sultanate's permission for the lighthouse's construction.
5. In regards to Singapore's claims of practicing sovereignty over Pedra Branca:
 - (a) International law is slow to presume either the abandonment of title or the displacement of the sovereignty of the original titleholder in the absence of clear evidence to this effect. The Case Concerning Sovereignty illustrates this principle over Certain Frontier Land (Belgium and Netherlands), where the Court rejected the contention that Belgian sovereignty derived from a treaty of 1843 had been displaced by subsequent conduct by the Netherlands. This precedent proves that the court does not lawfully value claims of acquiring land through treaties or practices of sovereignty. Malaysia holds historical sovereignty over the land and

- it cannot be proved that Singapore has practiced sufficient sovereignty over Pedra Branca.
- (b) Further, international law does not recognize that the construction and operation of a lighthouse establishes the sovereignty of the operating nation over the land occupied by the lighthouse – regardless of how long the arrangement may persist.
 - (c) Singapore did not assert the prerogative of sovereignty over Pedra Branca in a territorial waters boundary settlement in 1927 or in a later agreement in 1973.
 - (d) Before the mid-1990's, Singapore did not produce a single map indicating sovereignty over Pedra Branca.
 - (e) Furthermore, Malaysia asserts that Singapore's claims of sovereignty over Middle Rocks and South Ledge is invalid because it dates from 1993 and is not based on any form of governmental activity, but rather their relative proximity to Pedra Branca.
6. Malaysia exemplifies their own exercise of sovereignty over the islands.
- (a) According to Malaysia, if the Court fails to recognize Singapore's claim of sovereignty over Pedra Branca, this court cannot justify Singapore's claim over the Middle Rocks and South Ledge islands.
 - (b) In the letter of Promulgation dated 16 July 1968, Chief of Navy, Commander K. Thanabalasigam attached charts showing Malaysian territorial waters and instructed naval officers to act accordingly. In the relevant charts South Ledge was taken as a base point in defining the outer limit of Malaysian territorial waters in Chart 2403.
 - (c) The granting of oil concessions, such as the petroleum agreement between the Government of Malaysia and the Continental Oil Company of Malaysia signed 16 April 1968, which extended down to the area of South Ledge and Middle Rock.
 - (d) The 1985 Fisheries Act designated these areas as Malaysian fishery waters.
 - (e) Malaysia asserts that they have actively exercised their sovereignty over the three features both:
 - (i) In the context of Malaysia's control over the wider range of islands in the region; and
 - (ii) Through the use of Malaysian maritime areas in the grant of oil concessions and other bilateral treaties of delimitation.

SUMMARY AND REQUESTS

Singapore's claims over Pedra Branca, South Ledge, and Middle Rock have no standing; they are weak and stretch the interpretation of law. Singapore has made no real claim to sovereignty over these areas. In contrast, Malaysia actively practiced sovereignty over these areas as demonstrated above. Further hindering Singapore's case, Singapore failed to protest against these acts of sovereignty over the three islands by Malaysia. Malaysia prays that the Court will remember these acts of sovereignty practiced over Pedra Branca, Middle Rock, and South Ledge by Malaysia and that the court will grant Malaysia the right to rule and sovereignty over these areas. Malaysia prays that this dispute can be resolved so that Malaysia can live in peace without animosity against Singapore.

