INTERNATIONAL COURT OF JUSTICE

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Malaysia requests a revision of the Judgment of 23 May 2008, in which the Court found, *inter alia*, that sovereignty over the island of Pedra Branca/Pulau Batu Puteh belongs to Singapore

THE HAGUE, 3 February 2017. On 2 February 2017, Malaysia filed an Application for revision of the Judgment delivered by the International Court of Justice (ICJ) on 23 May 2008 in the case concerning Sovereignty over Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge (Malaysia/Singapore).

It is recalled that, in that Judgment, the Court found that (1) sovereignty over Pedra Branca/Pulau Batu Puteh belongs to Singapore; (2) sovereignty over Middle Rocks belongs to Malaysia; and (3) sovereignty over South Ledge belongs to the State in the territorial waters of which it is located (for more details, see Press Release No. 2008/10, available on the Court's website). Malaysia seeks revision of the finding of the Judgment regarding sovereignty over Pedra Branca/Pulau Batu Puteh.

Malaysia bases its Application for revision on Article 61 of the Statute of the Court, paragraph 1 of which provides that

> "[a]n application for revision of a judgment may be made only when it is based upon the discovery of some fact of such a nature as to be a decisive factor, which fact was, when the judgment was given, unknown to the Court and also to the party claiming revision, always provided that such ignorance was not due to negligence."

The request for revision must be submitted within six months of the discovery of the new fact and not later than ten years from the date of the judgment. The proceedings for revision are opened by a judgment which decides whether an application for revision is admissible, i.e. whether the above conditions have been fulfilled.

In its Application, Malaysia contends that "there exists a new fact of such a nature as to be a decisive factor within the meaning of Article 61". In particular, it refers to three documents discovered in the National Archives of the United Kingdom during the period 4 August 2016 - 30 January 2017, namely internal correspondence of the Singapore colonial authorities in 1958, an incident report filed in 1958 by a British naval officer and an annotated map of naval operations from the 1960s. Malaysia claims that these documents establish the new fact that "officials at the highest levels in the British colonial and Singaporean administration appreciated that Pedra Branca/Pulau Batu Puteh did not form part of Singapore's sovereign territory" during the relevant period. Malaysia argues that "that the Court would have been bound to reach a different conclusion on the question of sovereignty over Pedra Branca/Pulau Batu Puteh had it been aware of this new evidence".

Turning to the other conditions of Article 61, Malaysia asserts that the new fact was not known to Malaysia or to the Court when the Judgment was given because it was "only discovered on review of the archival files of the British colonial administration after they were made available to the public by the UK National Archives after the Judgment was rendered in 2008". Malaysia also argues that its ignorance of the new fact was not due to negligence as the documents in question were "confidential documents which were inaccessible to the public until their release by the UK National Archives".

Finally, Malaysia states that its request is also in accordance with the relevant provisions of the Statute, in so far as the timing of its Application is concerned. It indicates that the Application "is being made within six months of the discovery of the new fact, since all of the documents that establish this fact . . . were obtained on or after 4 August 2016", adding that it "is also being submitted before the lapse of ten years from the Judgment date of 23 May 2008".

In conclusion, Malaysia requests the Court to adjudge and declare that its Application for revision of the 2008 Judgment is admissible and asks it to fix time-limits to proceed with consideration of the merits of the Application.

The full text of Malaysia's Application for revision will shortly be available on the Court's website.

The International Court of Justice (ICJ) is the principal judicial organ of the United Nations. It was established by the United Nations Charter in June 1945 and began its activities in April 1946. The seat of the Court is at the Peace Palace in The Hague (Netherlands). Of the six principal organs of the United Nations, it is the only one not located in New York. The Court has a twofold role: first, to settle, in accordance with international law, legal disputes submitted to it by States (its judgments have binding force and are without appeal for the parties concerned); and, second, to give advisory opinions on legal questions referred to it by duly authorized United Nations organs and agencies of the system. The Court is composed of 15 judges elected for a nine-year term by the General Assembly and the Security Council of the United Nations. Independent of the United Nations Secretariat, it is assisted by a Registry, its own international secretariat, whose activities are both judicial and diplomatic, as well as administrative. The official languages of the Court are French and English. Also known as the "World Court", it is the only court of a universal character with general jurisdiction.

The ICJ, a court open only to States for contentious proceedings, and to certain organs and institutions of the United Nations system for advisory proceedings, should not be confused with the other — mostly criminal — judicial institutions based in The Hague and adjacent areas, such as the International Criminal Tribunal for the former Yugoslavia (ICTY, an ad hoc court created by the Security Council), the International Criminal Court (ICC, the first permanent international criminal court, established by treaty, which does not belong to the United Nations system), the Special Tribunal for Lebanon (STL, an international judicial body with an independent legal personality, established by the United Nations Security Council upon the request of the Lebanese Government and composed of Lebanese and international judges), or the Permanent Court of Arbitration (PCA, an independent institution which assists in the establishment of arbitral tribunals and facilitates their work, in accordance with the Hague Convention of 1899).

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