

CHAPTER V

CONCLUSION

International Adjudication is a method of international dispute settlement that involves the referral of the dispute to an impartial third-party tribunal, which is normally either an arbitral tribunal or an international court for binding decision, based international law. Regarding the case of *Pedra Branca/Pulau Batu Puteh* dispute between Malaysia and Singapore, both parties agreed to submit their case to the International Court of Justice in 2003 as an international adjudication and also as a body of United Nation (the biggest International Organization) purposed to solve peacefully that territorial dispute and resulted binding decision. However, in the process of the Court, the Parties (Malaysia and Singapore) have own argument purposed to maintain their claim over *Pedra Branca/Pulau Batu Puteh* island and two others maritime fitures Middle Rock and South Ledge islets which located near from mainland of *Pedra Branca/Pulau Batu Puteh*.

In court session, the Written Pleadings: Malaysia argued that *Pedra Branca/Pulau Batu Puteh*, Middle Rocks, and South Ledge are belong to Malaysia that the Johor Sultanate as a predecessor of Malaysia had original title to *Pedra Branca* which is was undisputed that Johor had established itself as a sovereign state with a certain territorial domain in Southeast Asia since it came into existence in 1512. By contrast, Singapore rejected and argued that *Pedra Branca*

Malaysia (see also Malaysia). Hence, Singapore (and its predecessor

United Kingdom) had built the lighthouse on the Pedra Branca Island in 1847 and several acts related in maintaining that island.

Depend on several evidence provided by Parties during the court, in 2008 the ICJ decided that the sovereignty of Pedra Branca is owned to Singapore, although the Court recognized the original title of Pedra Branca belonged to Johor Sultanate (predecessor of Malaysia) in historically. The Court argued that there is a transfer of ownerships toward Pedra Branca/*Pulau Batu Puteh* because the predecessors acting states. The sovereignty over a territory could be changed because the failure of state in response *a titre de souverain* action of other states. The action *a titre de souverain* of Singapore and its predecessor (UK) toward Pedra Branca at that period gained no protest from Malaysia (Johor Sultanate), including when Singapore did such an advertising activity, Malaysia did not response whether agree or disagree. In the International Law that act mean as agree or “the silent is speak” and can be strengthen *a titre de souverain* of Singapore. In the sovereignty over Middle Rock, the Court consider that Middle Rock still belong to Malaysia (Johor) as original title, because there is no *a titre de souverain* from Singapore activities on that islets. Other maritime feature is South Ledge, the Court put into effect a special note and stated that Malaysia and Singapore are not submitted to the Court in order to determine the territorial sea between two states, which is South Ledge can be seen when a low tide only. In this case, the Court

... the title of Pedra Branca belongs to the state in the territorial waters

Even though, the ICJ decision is final and legally binding to the Parties. However, there are several responses from the Parties which considering that parties was not fully satisfied toward the decision of the Court. The response is appeared from Malaysia, beside they described that ICJ decision was creating a “win-win” solution for both parties, but in other side they want renewed its search for the letter 1844 as other evidence to retake Pedra Branca Island in the term 10 years as mentioned in procedure of Court. The undetermined of Court toward territorial sea between two countries (Malaysia and Singapore) it will make a new dispute between Parties. Meanwhile as the Senior Minister of State for Foreign Affairs of Singapore which stated that the maritime territory around the island included a territorial around the island included a territorial sea set up to 12 nautical miles and an EEZ and this claim was unacceptable and considers as reasonable by Malaysia’s Foreign Minister. Fortunately, to avoid a new dispute, the Parties agreed to establish what they have named the Joint Technical Committee to delimit the maritime boundary in area around Pedra Branca, Middle