



Note No. SMUN988/2022

The Permanent Mission of the Republic of Singapore to the United Nations presents its compliments to the Secretary-General of the United Nations and has the honour to refer to (a) the circular communication from the Office of Legal Affairs of the Division for Ocean Affairs and the Law of the Sea (Division) bearing reference M.Z.N.159.2022.LOS (Maritime Zone Notification) dated 2 August 2022 notifying that on 22 July 2022, Malaysia deposited with the Secretary-General, pursuant to Article 16, paragraph 2, of the 1982 United Nations Convention on the Law of the Sea (UNCLOS), a list of geographical coordinates of points concerning the baselines from which the breadth of the territorial sea of Malaysia is measured (List) and (b) a copy of the List posted on the website of the Division at www.un.org/Depts/los.

Singapore's Objections

The Government of the Republic of Singapore registers its strong objections to the use by Malaysia of straight baselines as set out in the List. The straight baselines established by Malaysia by joining the points in the List are not in conformity with international law, including the provisions of UNCLOS. Without addressing the specifics of each base point and straight baseline, Singapore notes with concern the following:

a. In the Strait of Malacca, West Peninsular Malaysia

Malaysia's coastline from Langkawi in the north to Tanjung Piai in the south is not "deeply indented and cut into" and the islands of Pulau Perak and Pulau Jarak do not constitute a "fringe of islands along the coast in its immediate vicinity" that would justify the establishment of a system of straight baselines in accordance with Article 7, paragraph 1, of UNCLOS.

Moreover, the baselines depart to an appreciable extent from the general direction of Malaysia's coast, and the sea areas lying within those lines are not sufficiently closely linked to the land domain to be subject to the regime of internal waters, contrary to Article 7, paragraph 3, of UNCLOS.

b. The Johor Strait

Malaysia's coastline along the Johor Strait is not "deeply indented and cut into" and Pulau Merambong is not part of a "fringe of islands along the coast in its immediate vicinity" that would justify the establishment of a system of straight baselines.

c. Around the Singapore Island of Pedra Branca

The use of South Ledge (referred to by Malaysia as Tubir Selatan (SM 64)) as a base point is invalid because it has not been established that sovereignty over South Ledge belongs to Malaysia (see paragraph *f* ("The 2008 ICJ Judgment and South Ledge") below) and because the feature is a low-tide elevation with no lighthouse or similar installation that is permanently above sea level built on it, contrary to Article 7, paragraph 4, of UNCLOS.

Middle Rocks (referred to by Malaysia as Batuan Tengah (SM 65)) does not constitute a "fringe of islands along the coast in its immediate vicinity" that would justify the establishment of a system of straight baselines.

Malaysia's straight baselines in this area also depart to an appreciable extent from the general direction of Malaysia's coast, and the sea areas lying within those lines are not sufficiently closely linked to the land domain to be subject to the regime of internal waters. Furthermore, the system of straight baselines in this area enclaves the Singapore island of Pedra Branca within Malaysia's internal waters, which is not only a violation of Article 7, paragraph 6, of UNCLOS, but also a serious breach of Singapore's sovereignty.

d. East Peninsular Malaysia

Malaysia's coastline from Pengkalan Kubor in the north to Middle Rocks in the south is not "deeply indented and cut into" and the islands along Malaysia's coast, including Pulau Tioman, Pulau Tenggol and Pulau Aur, do not constitute a "fringe of islands along the coast in its immediate vicinity" that would justify the establishment of a system of straight baselines.

The use of P. Berhala (SM 70/1) as a base point is invalid because the feature is an underwater rock of unknown depth.

e. *East Malaysia, Sarawak and Sabah*

Malaysia's coastline in Sarawak is not "deeply indented and cut into" and the islands off the coast of Sabah, such as Pulau Mangalum and the Mantanani islands, do not constitute a "fringe of islands along the coast in its immediate vicinity" that would justify the establishment of a system of straight baselines.

f. *The 2008 ICJ Judgment and South Ledge*

Singapore further rejects Malaysia's claimed use of South Ledge as a base point in view of the International Court of Justice's (ICJ) Judgment of 23 May 2008 in the case concerning *Sovereignty over Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge (Malaysia/Singapore)* (2008 ICJ Judgment), wherein the ICJ ruled that sovereignty over South Ledge belongs to the State in the territorial waters of which it is located. It has not yet been determined whose territorial waters South Ledge lies within. Malaysia's unilateral act of selecting South Ledge as one of its base points is therefore inconsistent with the 2008 ICJ Judgment.

Singapore's Position

Malaysia's straight baselines wrongfully convert into internal waters areas which are part of the territorial sea or exclusive economic zone and wrongfully convert into territorial sea areas which are part of the exclusive economic zone. The establishment of Malaysia's straight baselines therefore infringes Singapore's rights in the areas so converted and also violates Singapore's maritime spaces. In particular, Malaysia's straight baselines infringe Singapore's rights in the exclusive economic zone, including the freedoms of navigation and overflight and of the laying of submarine cables and pipelines, and other internationally lawful uses of the sea, as provided in Article 58, paragraph 1, of UNCLOS. Malaysia's straight baselines also infringe the rights that the international community has in the areas so converted.

Singapore therefore strongly objects to and does not recognise the straight baselines established by Malaysia or any unilateral claims or measures by Malaysia that are inconsistent with international law and/or the 2008 ICJ Judgment and reserves its rights and those of its nationals in that regard.

The Permanent Mission of the Republic of Singapore has the honour to request that this Note be registered, published, and circulated in accordance with usual practice and avails itself of this opportunity to renew to the Secretary-General of the United Nations the assurances of its highest consideration.

NEW YORK

21 November 2022



Secretary-General of the United Nations
New York