

MEMORANDUM TO CABINET BY THE MINISTER
OF COMMONWEALTH AND FOREIGN
AFFAIRS

Recognition of the Compulsory Jurisdiction
of the International Court of Justice

On 29th November, 1966, following Cabinet approval (Memorandum No. 534A), the Government of Malta declared to the Secretary-General of the United Nations that Malta accepted as compulsory, ipso facto and without special convention, on condition of reciprocity, the jurisdiction of the International Court of Justice over all disputes other than the following:

- (i) disputes in regard to which the Parties to the dispute have agreed or shall agree to have recourse to some other method of peaceful settlement;
- (ii) disputes with the Government of any other country which is a Member of the British Commonwealth of Nations, all of which disputes shall be settled in such manner as the parties have agreed or shall agree.
- (iii) disputes with regard to questions which by international law fall exclusively within the jurisdiction of Malta;
- (iv) disputes concerning any question relating to or arising out of belligerent or military occupation or the discharge of any functions pursuant to any recommendation or decision of an organ of the United Nations, in accordance with which the Government of Malta have accepted obligations;
- (v) disputes arising under a multilateral treaty, unless (1) all Parties to the treaty affected by the decision are also Parties to the case before the Court, or (2) the Government of Malta specially agrees to jurisdiction;

- (vi) disputes relating to any matter excluded from compulsory adjudication or arbitration under any treaty, convention or other international agreement or instrument to which Malta is a party;
- (vii) disputes in respect of which arbitral or judicial proceedings are taking, or have taken place with any State which, at the date of the commencement of the proceedings, had not itself accepted the compulsory jurisdiction of the International Court of Justice; and
- (viii) disputes in respect of which any other Party to the dispute has accepted the compulsory jurisdiction of the International Court of Justice only in relation to or for the purposes of the dispute; or where the acceptance of the Court's compulsory jurisdiction on behalf of any other Party to the dispute was deposited or ratified less than twelve months prior to the filing of the application bringing the dispute before the Court.

2. At the same time the Government of Malta reserved the right at any time, by means of a notification addressed to the Secretary-General of the United Nations, and with effect as from the moment of such notification either to add to, amend or withdraw any of the foregoing reservations or any that may thereafter be added.

3. The Secretary-General had in the introduction to his annual report last year, suggested that it would be appropriate for member States to review their position regarding the acceptance of the Court's jurisdiction.

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4. The United Kingdom Government has drastically reduced its reservations when on 1st January, 1969 it deposited with the Secretary-General of the United Nations a new declaration accepting the compulsory jurisdiction of the court, on condition of reciprocity, over all disputes arising after the 24th October, 1945 (the date on which the United Nations Charter came into force) with regard to situations or facts subsequent to the same date, other than:

- (i) any dispute which the United Kingdom
 - (a) has agreed with the other Party or Parties thereto to settle by some other method of peaceful settlement; or
 - (b) has already submitted to arbitration by agreement with any State which had not at the time of submission accepted the compulsory jurisdiction of the International Court of Justice.
- (ii) Disputes with the Government of any other country which is a Member of the Commonwealth with regard to situations or facts existing before the 1st of January 1969.
- (iii) Disputes in respect of which any other Party to the dispute has accepted the compulsory jurisdiction of the International Court of Justice only in relation to or for the purpose of the dispute, or where the acceptance of the Court's compulsory jurisdiction on behalf of any other Party to the dispute was deposited or ratified less than 12 months prior to the filing of the application bringing the dispute before the Court.

5. It is Government's policy to have the greatest possible recourse to peaceful procedures for the settlement of disputes and it would be consistent with this policy that Government should reduce to a minimum the reservations to its acceptance of the compulsory jurisdiction of the International Court of Justice.

6. It is therefore proposed, subject to Cabinet's approval, to deposit a new declaration limiting Malta's reservations to those listed in paragraph 4 above but maintaining also the exclusion made under sub-paragraph (iii) of Malta's original declaration concerning disputes with regard to questions which by international law fall exclusively within the jurisdiction of Malta.

7. The Crown Advocate General agrees with the above proposal with which Hon. Ministers are also invited to agree.

11th March, 1969.

CABINET MEMORANDUM SUBMITTED BY

THE MINISTER OF COMMONWEALTH AND
FOREIGN AFFAIRS

MEMO. No.

534B

SUBJECT

Recognition of Compulsory Jurisdiction
at the International Court of Justice.

CABINET DECISION REQUESTED

1. To deposit a new declaration with the Secretary General of the U.N. limiting Malta's reservations to:
 - a) any dispute which the Government of Malta
 - a) has agreed with the other party or parties thereto to settle by some other method of peaceful settlement; or
 - b) has already submitted arbitration by agreement with any State which had not at the time of submission accepted the compulsory jurisdiction of the International Court of Justice;
 - ii) disputes with the Government of any other country which is a Member of the Commonwealth with regard to situations or facts existing before the 1st January, 1969;
 - iii) disputes in respect of which any other Party to the dispute has accepted the compulsory jurisdiction of the International Court of Justice only in relation to or for the purpose of the dispute, or where the acceptance of the Court's compulsory jurisdiction on behalf of any other Party to the dispute was deposited or notified less than 12 months prior to the filing of the application bringing the dispute before the Court; and
 - iv) disputes with regard to questions which by international law fall exclusively within the jurisdiction of Malta.