

SINGAPORE AND INTERNATIONAL LAW

THE objective of this section of the Review is to reproduce materials and information which illustrate Singapore's attitude to, and approaches on, questions of international law and international organisations. As far as possible, primary materials are reproduced but where unavailable, and the topics are important, secondary materials including relevant extracts from newspaper reports are reproduced. The materials are presented under the following headings:

- I. Policy Statements
- II. Legislation *
- III. Judicial Decisions *
- IV. Treaties (other than Asean Instruments)*
- V. Asean Treaties, Declarations and other Instruments *
- VI. Singapore in the United Nations and other International Organisations and Conferences

The materials are selective. As the materials are compiled from the Law Library and other sources, it should be stressed that any text contained herein is not to be regarded as officially supplied to the Review. [*Singapore & International Law Section Editor.*]

I. POLICY STATEMENTS

SINO-BRITISH AGREEMENT ON HONG KONG: Singapore Government Statement (Singapore Government Press Release No. 57/SEP. 09-0/84/09/28, 28 September 1984).

The Singapore Government welcomes the successful conclusion of the talks and the initialling of the Agreement between the People's Republic of China and the United Kingdom on Hong Kong. The return of Chinese sovereignty over Hong Kong in 1997 closes a chapter in China's relations with the West. The Joint Declaration and the three Annexes have spelt out in some detail an institutional framework that can provide for the continuation of the present way of life in Hong Kong when it reverts to Chinese sovereignty. The right spirit in interpreting and implementing the Joint Declaration and the three Annexes will sustain investor confidence in Hong Kong. Hong Kong's economic role has benefited other countries of the region, including Singapore. Hong Kong has facilitated economic ties between Singapore and the PRC, and under the Agreement, can continue to do so after 1997.

* There is no material under these headings in this issue.

VI. SINGAPORE IN THE UNITED NATIONS AND OTHER
INTERNATIONAL ORGANISATIONS AND CONFERENCES

- (a) *INTERNATIONAL LABOUR ORGANISATION: Speech by Professor S. Jayakumar, Minister for Labour and Second Minister for Law and Home Affairs at the 70th Session of the International Labour Conference on Thursday, 7 June 1984 in Geneva (Singapore Government Press Release No. 05/JUN, 12-1/84/06/07).*

On behalf of the Singapore Delegation, I wish to congratulate you on your election as President of this Conference. I am sure under your able leadership and guidance, the Conference will come to a successful conclusion.

Madame President, allow me at the outset to raise for the consideration of this honourable gathering the thinking of the Singapore Government. There should be greater flexibility and understanding by the ILO, both in the setting and supervision of labour standards in various countries.

There are various ways by which different countries can realise the objective of providing decent standards of living and optimum conditions of work for their people. By the same token, there are various ways that one can arrive at the ILO objective of raising the working and living standards of workers throughout the world. These ways are made more arduous, more complicated and more lengthy at times by the uncertainty of the world economic outlook. The path to recovery of each nation's economy has been hampered by the same old obstacles. Unemployment remains high in certain countries.

The debt problems of a number of developing countries continue to pose a danger to the international financial system. If unsolved, the debt problem will remain a threat to world economic recovery. In addition, protectionist sentiments and pressures are widespread in spite of upturn in economic growth. These have untoward effects on the employment situation of many countries. Against this scenario, the task of governments to maintain a healthy employment situation in their countries is far from easy.

The ILO was founded in 1919. It has been in existence for 65 years. When the ILO was established, there were only 45 members. Now there are 151 members. The nation states comprising the world community are not homogeneous in character. There are significant differences in our political, legal, and socio-economic systems and the levels of economic development are varied. This being the case, a crucial question is: how can the ILO continue to be relevant for the coming decades?

The work of the ILO in promoting international labour standards remains impressive. Up to now, over 300 instruments have been adopted and more than 5,000 ratifications of ILO Conventions have been registered. Given such impressive records, the Director-General has reasons to feel satisfied when he declares in his Report that "on the basis of ILO standards and as a result of the work of supervisory bodies, improvements have been brought about in social conditions and in the protection of working men and women".

Although we fully support the setting of international labour standards, we must critically evaluate the labour standards setting activities. Too many new instruments have been introduced at each International Labour Conference. Furthermore, these labour standards are based on those achieved by industrialized and developed countries.

A more realistic approach should be adopted in making labour standards more relevant to the needs of developing countries. Adequate time must also be allowed for developing countries to attain the standards aspired to. Ratification and implementation of such standards can only be achieved in stages as developing countries reach certain levels of social and economic development.

The ILO Committee of Experts should therefore take these into account before criticizing developing countries, simply because they have not complied fully with ILO Conventions. Due consideration must be given to national circumstances and the stage of development of each country. What is more important, there could well be a unique system peculiar to a particular member country which must not be too readily criticised by the Committee of Experts, without due understanding of the various problems associated with each country.

The Committee of Experts should assume a wider role in developing more alternatives in its supervision, particularly when there are compelling reasons for developing countries to adopt a different approach than the ILO ideals and principles. This is particularly so if the deviation has the support of both the employers' and workers' organisations.

It is in this regard that Singapore has repeatedly urged the ILO and the Committee of Experts to exercise greater flexibility in its standards setting and supervision of ILO Conventions. At the 9th ILO Asian Regional Conference held in Manila in 1980, we pointed out that developing countries could only implement the ILO standards in stages as they solve their massive social and economic problems.

The ILO should shift its effort and resources in standard setting to that of understanding the problems of developing countries and helping them to achieve social and economic development. For three successive years at the ILO since 1981, we also stressed the need to concentrate on economic development to solve unemployment so that member countries will be in a better position to ratify ILO Conventions.

Unless we satisfy the basic needs of our people any hope of meeting international labour standards will be futile. The 4th ASEAN Labour Ministers Meeting held in Singapore in 1982 reiterated the need for the ILO Committee of Experts to adopt a more understanding position in supervising the application of ratified Conventions. Relentless pressure from the ILO Committee of Experts to get developing countries to comply strictly with ILO Conventions without due regard to the stage of social and economic development is likely to discourage them from ratifying new ILO Conventions.

We believe that the time has come for ILO to re-examine its whole standard-setting and supervisory attitudes to take into account the different levels of socio-economic development of member countries. The ILO should seriously consider introducing ILO Conventions which

allow member countries to ratify them by stages as they achieve social and economic progress.

Where there are compelling reasons for member countries in instituting certain policies to resolve domestic problems, the ILO should, instead of unreasonable criticism, address itself to the question whether such policies have in fact resulted in employment promotion and improvement in the workers' welfare. Surely this criterion should be of paramount importance to the ILO. If such deviations from ILO standards were necessary and did result in progress, member countries should not be criticised for mere technical infringement of ILO Conventions. International labour standards are after all meant for the well-being of the working people. If we are able to achieve this goal through different means, member countries should be allowed to determine how to achieve these objectives and where the ILO decides it should intervene and criticise the overriding consideration it should have is whether the country has taken measures to improve the economic and social position of the workers? We can have an impressive array of grandiose multilateral conventions but all these are meaningless if the most important human right is not available, that is the right to be employed, with adequate pay to provide for the basic needs of the worker and his family.

In conclusion, let me reiterate that we recognise the importance of international labour standards for all countries. What we wish to see is a reorientation in the attitudes and approaches of the ILO in the implementation of these standards in developing countries. The ILO should do more to help developing countries to achieve the social and economic development necessary for the implementation of international labour standards. To achieve this, it may not be necessary to dismantle or make radical changes to the structure or system; rather what we call for is a change in attitude. In its setting and supervision of the application of International Labour Standards, the ILO must take into greater account the individual national circumstances and stages of development of developing countries and the capacity of these countries to ratify and implement such standards only in stages.

- (b) *ASEAN: Speech by Mr. S. Dhanabalan, Minister for Foreign Affairs at the 17th ASEAN Ministerial Meeting on Monday, 9 July 1984 in Jakarta (Singapore Government Press Release No. 18/JUL, 09-2/84/07/09).*

I would like to join my colleagues in expressing my sincere thanks and appreciation to His Excellency President Soeharto for taking the time to officially open this meeting. He has, at the very outset, provided the thinking that should guide our deliberations.

On behalf of the Singapore delegation, I would also like to convey our warmest congratulations to Prof Mochtar for his unanimous election as Chairman of the 17th ASEAN Ministerial Meeting, and for his effective leadership during the past year as Chairman of the ASEAN Standing Committee.

The 17th AMM has a special significance. Last year we met as a group of five. This year, we meet as a group of six.

We warmly welcome His Highness Prince Mohamad Bolkiah, Foreign Minister of Brunei Darussalam, who is attending the ASEAN

Ministerial Meeting as a full member for the first time. But Prince Bolkiah is not a stranger. He has attended the previous ASEAN Ministerial Meetings as an observer. In the past six months, Brunei has constructively and actively participated in various ASEAN meetings and activities. Brunei's membership has added new impetus to ASEAN.

I regret that my good friend and colleague, General Romulo, is not with us today. General Romulo's contribution to ASEAN, his energy, his forceful arguments, and, of course, his good humour, are an inerasable part of ASEAN history. But age catches up with all of us and all of us have to retire at some time. I wish General Romulo a happy retirement. I welcome Mr Arturo Tolentino as the new Foreign Minister of the Philippines. We welcome a person who has already distinguished himself in looking after the interests of the Philippines in world councils. I am sure that we will benefit by his counsel and wisdom.

We also extend a warm welcome to Papua New Guinea, which is once again attending our meeting as an observer.

It is also significant that we are again meeting in Jakarta. In the last decade or so, each watershed decision — those that have charted new directions for ASEAN's evolution and carried our cooperation forward onto a new plane — has been taken in Indonesia.

This perhaps says something about Indonesia's contribution to ASEAN, as the spiritual birthplace of "musyawarah" and "mufakat". These wise concepts of decision-making have fostered mutual understanding and accommodation of our different approaches to regional co-operation. "Musyawarah" and "mufakat" have played an important role in keeping us together. These principles have produced wise decisions which take into account the interests and aspirations of all member countries.

It is thus also appropriate that it was in Jakarta, less than two months ago, that we reaffirmed our common approach to the Cambodian issue.

Since its announcement in September last year, the Appeal for Cambodian Independence has attracted wide support from the international community. The Appeal's approach is flexible and its proposals reasonable. It calls for national reconciliation, the restoration of Cambodian independence and a phased withdrawal of Vietnamese forces from Cambodia.

There has been no lack of opportunity for Vietnam to enter into a constructive search for a political settlement. Only a few months ago, the Vietnamese Foreign Minister was invited to visit Indonesia. There was every encouragement to begin a genuine dialogue, but Vietnam's response has been disappointing.

We will not however be discouraged from continuing to pursue and refine our proposals in order to bring about a settlement in Cambodia. Nor should our friends be deterred from making further efforts to persuade Vietnam to seek a political settlement. When we met in Jakarta in May this year, we agreed that Indonesia should act as an interlocutor between ASEAN and Vietnam. The lines are open.

Under the popular leadership of Prince Sihanouk, the Cambodian resistance has continued to expand; broadening and deepening their struggle for independence. I do not think Prince Sihanouk and his colleagues want to force their way back to power at bayonet point. I do not think it gives them any pleasure to shed the blood of their countrymen. They seek to use military pressure only to force Vietnam to the negotiating table. We share this approach.

The Appeal for Cambodian independence reflects the aspirations of Cambodians that their country should be independent, non-aligned and neutral; and their belief that the best means of achieving this is through a process of national reconciliation as articulated on many occasions by Prince Sihanouk.

National reconciliation is an idea that deserves support and further study. It is the key to the settlement of the Cambodian conflict. In the long-term interests of their survival as a nation and people, all Cambodian groups should submerge their differences, whatever these may be, to restore peace in their country and regain independence. It is in the interest of all Cambodians to re-unite to put an end to foreign occupation and interference. Through national reconciliation, the foundation for a revived and resilient Cambodian nation can be established.

I am completely persuaded that the course that ASEAN has set in the Cambodian problem will lead to Vietnamese withdrawal and Cambodian independence. Vietnam, of all countries, must know that no force in history has ever subjugated a national liberation movement.

Mr. Chairman, Cambodia has been an important item in ASEAN relations with other countries in the last five years. This has attracted the most media and public attention. It is not generally perceived that ASEAN has also been active in economic matters and in its relations with other countries. This is especially so in its relations with those developed countries which are ASEAN's dialogue partners.

The international economic situation is still fraught with uncertainties. While there have been encouraging signs of economic recovery, we are not out of the woods yet. With structural weaknesses in the economies of the industrialised countries, unemployment and besieged industries fighting for survival will continue to be features of the economies of these countries. The industrialised countries will continue to find protectionist measures a very tempting solution. ASEAN's problems with the industrialised countries are thus likely to persist. ASEAN therefore needs to devise common strategies to counter protectionist policies and tendencies in the industrialised countries. We must persuade our dialogue partners to implement the commitments they have undertaken in the Tokyo round and other forums.

An open and free trade system is vital for us in ASEAN. We are export-oriented developing countries with market-economies. We cannot afford to depend only on each other. We are all developing countries with limited market opportunities. We must therefore seek maximum possible access to the world economy. We have to take an active role in negotiating a more liberal international economic system.

We have, in the past, demonstrated the potency of a common approach. More recently, ASEAN's role in the regional and international discussions at the Bali consultations on the new round of MTN (Multilateral Trade Negotiations) and the Manila Meeting between the ASEAN Economic Ministers and the US Trade Representative on a trading arrangement between ASEAN and the US, and the ASEAN-Japan Ministerial Meeting on Science and Technology all illustrate the importance of ASEAN's collective economic diplomacy.

To urge cooperation in our relations with the developed countries is not to suggest that intra-ASEAN cooperation has stagnated.

In the last one year since our meeting in Bangkok, there have been no fewer than 260 ASEAN gatherings as part of project activities or as the business meetings of various committees. Many ASEAN projects, although undramatic, were by no means inconsequential.

A few examples are: the introduction by ASEAN airlines of the special ASEAN airfares which are very much lower than the normal fares; the exemption of visa requirements for ASEAN nationals to travel in ASEAN countries; and the completion of the ASEAN Submarine Cable project. This last project has not only greatly increased the number of cable and telephone lines between ASEAN countries, but also substantially reduced the waiting time and cost for trunk calls or cables. All these are only examples, and I have not touched on the many ongoing projects in the cultural, information and social fields.

We have not stood still. But there may be a need to highlight our activities and to keep the general public better informed of important ASEAN decisions and projects, which will affect them in one form or another. Perhaps we have been too modest.

Mr Chairman, ASEAN's record is one of which we can be justifiably proud. What of the future?

One of the items on the agenda of our meeting this year is the consideration of the report of the Task Force on ASEAN Cooperation that was formed two years ago. The Task Force was charged, among other things, with the responsibility for defining new directions for future cooperation among the ASEAN countries. This is the first time that we have conducted a self-examination.

I read the report of the Task Force with great interest and with admiration. Allow me to take this opportunity to congratulate the authors. It is a rich source of ideas that, I am confident, will stimulate fruitful and constructive discussions.

I was struck by the multi-dimensional character of ASEAN that emerged from the report. This is perhaps such an obvious characteristic of ASEAN that it escapes notice except when brought together between the covers of a single document. It is a point worth emphasising.

The future of ASEAN lies in the balanced growth of our cooperation in all areas: the political, the economic, the social and cultural. ASEAN does not exist for economic reasons alone. Our endeavours on a regional security issue like Cambodia will shape the pattern for ASEAN diplomacy in the future. We have succeeded

because we are united politically and have proved ourselves capable of projecting the unity and translating it into influence in the broader international arena. Our political unity is buttressed by, and reinforces, a broad network of economic, social and cultural exchanges and cooperative relationships at various levels. It is essential that we continue to move forward on as broad a front as possible.

ASEAN's future is in its gradual but steady evolution into a balanced and multi-dimensional regional community which will enhance the resilience of all its members and the region as a whole. This sense of regional resilience, which ASEAN is creating, must be fostered. It is the most basic long-term guarantee of the security of us all. I am not thinking of security in the narrow military sense. Regional resilience is security in its most comprehensive and deepest sense because it is the product of the national resilience of each country in the region and is firmly based on political, economic and social foundations.

There is a growing sense of self-confidence in ASEAN that enables us to take our future into our own hands and actively try to influence the regional environment in Southeast Asia. This is the broader significance of the actions that we have taken on Cambodia; in our economic relations with the developed countries and the major powers; and on a host of other issues. If we sustain this approach, I see no reason for us to fail.

I wish to conclude with the observation that while we place some of our highest hopes and aspirations in ASEAN, it is ultimately national actions and policies that will determine the national well-being of each ASEAN country. We cannot depend on ASEAN to be the panacea for our national problems. ASEAN provides a conducive regional framework within which each country must determine its own future. It is for each of us to make use of this regional framework in a manner that is relevant to our national objectives without over-stretching its capabilities.