

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.*]

II. LEGISLATION

THE ARBITRATION (FOREIGN AWARDS) ACT, 1986 (NO. 24 OF 1986) SEPTEMBER 12, 1986

The purpose of this Act is to give effect to the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards adopted in 1958 by the United Nations Conference on International Commercial Arbitration. A press release explaining the legislation and Singapore's accession to the Convention stated that the legislation was in pursuance of Singapore's desire to emerge as a centre for commercial arbitration. (Singapore Government Press Release No. 13-0/86/09/02 of 4th September 1986). The text of the New York Convention is appended to the Act. (See below for text of press release).

IV. TREATIES (OTHER THAN ASEAN INSTRUMENTS)

- (c) *SINGAPORE'S ACCESSION TO THE NEW YORK CONVENTION IN ARBITRAL AWARDS (Singapore Government Press Release No. 04/SEP, 13-0/86/09/02, Ministry of Law).*

Singapore has acceded to the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards (also known

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

as the "New York Convention"). Singapore's Instrument of Accession was deposited with the Secretary-General of the United Nations in New York on 21 August 1986.

In accordance with the provisions of the New York Convention, the Convention will take effect for Singapore 90 days after the deposit of the Instrument of Accession i.e. as from 19 November 1986. The Arbitration (Foreign Awards) Act, 1986 which was recently enacted by Parliament to enable Singapore to accede to the Convention will be brought into force on that same day.

The Government intends to develop Singapore as a centre for international commercial arbitration and will be liaising with the private sector to identify the best ways and means of achieving this in as short a time as possible. Singapore is ideally located and has all the necessary facilities for an international commercial arbitration centre. Development of such a centre will enhance Singapore's standing as an international financial and commercial centre. It will also be beneficial to other sectors of our economy and provide increased employment as well as commercial opportunities for our people.

V. ASEAN TREATIES, DECLARATIONS AND OTHER INSTRUMENTS

- (b) *THE KAMPUCHEAN PROBLEM: Excerpts from Statement of Mr. S. Dhanabalan, Minister for Foreign Affairs at the 19th ASEAN Ministerial meeting in Manila, 23 June 1986 (Singapore Government Press Release No. 38/JUN, 09-1/86/06/23).*

The annual meeting of ASEAN Foreign Ministers provides an opportunity for us to take stock of regional developments and chart action for the future. As we look back over the last 12 months, we note that the struggle against the Vietnamese occupation of Cambodia continues to make steady and satisfactory headway. The CGDK has taken the diplomatic initiative with its 8-point proposal. Though certain requirements such as the disarming of all factions and free elections supervised by an international group, are missing from the CGDK proposal, the proposal does have enough important elements to form part of the framework for a political settlement. It is for this reason that it has attracted international support. Vietnam's precipitate rejection of the proposal cannot be the last word on the subject. We remain committed to a political solution that will guarantee withdrawal of Vietnamese occupation troops, provide self determination to Cambodians and deny Pol Pot and his henchmen an opportunity to come back to power. This has been ASEAN's position for some time. I do not therefore see any need for ASEAN to make new proposals at this Ministerial Meeting...

- (c) *THE KAMPUCHEAN PROBLEM: Statement of Mr. S. Dhanabalan, Minister for Foreign Affairs, in his capacity as Chairman of the ASEAN Standing Committee (Singapore Government Press Release No. 44/SEP, 09-0/86/09/19)*

ASEAN regrets that the Hanoi Communique of 18 August 1986 has not shown any movement in Vietnam's position despite its pronouncements that it desires a political solution of the Kampuchean problem. Its pre-condition of excluding the Democratic Kampuchea

Party from the settlement process, outright rejection of the 8-point proposal of the Coalition Government of Democratic Kampuchea (CGDK) and refusal to negotiate with the CGDK, stand in the way of a settlement. ASEAN continues to support the CGDK's position in calling for the withdrawal of Vietnamese troops from Kampuchea.

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

- (d) *MORALITY AND NON-ALIGNMENT: Excerpts of a speech by Mr. S. Dhanabalan, Minister for Foreign Affairs at the Eighth Summit Conference of Heads of State of Non-aligned Countries, Harare, Zimbabwe, 3 September, 1986 (Singapore Press Release No. 10/SEP, 09-1/86/09/03).*

In preparing my remarks today, I looked carefully at what our founding fathers said at the Bandung and Belgrade Conferences. The Chairman of the Belgrade Conference, President Tito, said, "Our material resources are modest and our possibilities are far from being limitless but our moral power is immense...". He called upon the Movement "to mobilize its vast moral forces". President Nkrumah agreed and said in Belgrade "we are constituting ourselves into a moral force, a distinct moral force which should be a balancing force and influence between the East and the West in the cause of peace".

Prime Minister Nehru, speaking earlier at the Bandung Conference, said that "whether our influence is great or small, it must be exercised in the right direction, in an independent direction, in a direction which has integrity of purpose and ideals and objectives behind it".

Thus from the very beginning, there was a consensus that one weapon was indispensable to the Movement—the sword of morality. It is not a weak sword. The fight against injustice can motivate people to win heroic struggles against overwhelmingly superior military odds. It can rouse up the conscience of mankind to shake up unshakeable regimes. This is the lesson of struggle against apartheid. This is the lesson our Movement has to heed.

Moral power only works in the hands of those who choose to live by its dictates. It accepts no double standards, allows no exceptions. To harness the force of moral power, we have to be morally consistent in our words and deeds. Any man who condemns murder in one instance and condones it in another will be rightly accused as a moral charlatan. His moral judgements will be ignored.

At each conference, our Movement has called for peaceful settlement of disputes. The former Prime Minister of Sri Lanka, John Kotelawala, said at Bandung "we have to prove by example to the other nations that our national disputes can be settled without resort to force". Mankind will judge us by our deeds, not by our words. We have failed, failed miserably to resolve the conflicts between our member states.

We have committed great injustices. Our lowest point came when we punished a victim of aggression, Kampuchea, by suspending it from

this Movement, and rewarding the aggressor by preserving its membership. No nation has suffered as much as Kampuchea in the last fifteen years. As one of our founder member states (and it joined long before Vietnam did), it deserved special support from us. Its leader, Prince Sihanouk, is one of the most respected Third World leaders. Yet he is denied entry to our meetings and refused permission even to explain the plight of his nation to us. A movement that can render such injustice to one of its own cannot claim to have the force of morality on its side. This has blunted our moral sword.

Our moral sword was intended to defend us, the weak developing countries, from the pressures of both superpowers. Not surprisingly, therefore, when our Movement was born, both superpowers angrily denounced the doctrine of non-alignment as impractical and immoral. Today, one of them showers praise upon our Movement, knowing well that its friends in the Movement will shield it from any criticism or even mention in our declarations. The Soviet Union would like the moral sword of non-alignment to be used only against the United States.

Tragically, however, by allowing one edge of our moral sword to be blunted, we have in fact dulled both edges. By using our weapon only selectively, we have destroyed its effectiveness. This is not an exaggeration. Let me give you an example. Our Movement has been concerned with superpower pressure in Central America. But we will look in vain in the many volumes of documents produced by our Movement for even a mention of the occupation of a non-aligned country by a superpower in Afghanistan. I am frankly puzzled by the distinction we seem to draw between superpower conduct in these two cases. On what basis can we make a distinction? Are we arguing that it is correct for one superpower to behave in a certain way in a particular region but incorrect for another superpower to behave in a similar way in a different region? Such inconsistency will invite only derision. If we shield one superpower from criticism, our Movement will have little credibility when we denounce the misdeeds of the other superpower. Those whose intention was to protect one superpower from criticism surely did not intend to shield both. Paradoxically, this is exactly what they have achieved.

Unless we are seen to be consistent, unless our moral integrity is unquestionable, both superpowers can afford to ignore our deliberations. Our meetings will be unheeded or attract only the cynical attention of flatterers who shower lavish praises on us while disregarding our declarations. Mr. Chairman, I make this point not as an exercise in abstract intellectual logic. It has an immediate practical relevance to the pressing problems that we face. It will have an immediate impact on our ability to influence the situation in South Africa, where, even as I speak, the struggle against apartheid is intensifying. The struggle against apartheid will grow and will be victorious because it is a just struggle. The outcome is not in doubt. The only questions are when and at what price.

The struggle against apartheid will triumph on its own moral steam. But can our Movement significantly help the process? With moral vitality and authority, we will be able to harness the full potential of our Movement to promote a quick victory at the least possible cost to the oppressed peoples who are struggling against apartheid. But

devoid of its moral strength, our Movement cannot contribute to the struggle against apartheid.

We can and should regain our moral sword. To do so, we have to first recover our independence from both superpowers. Let me suggest one small step we can take in that direction.

A few months ago, the Ministerial Meeting of the Coordinating Bureau issued a declaration on the United Nations. It "stressed the obligations of all states to strictly abide by the principles of the UN and to respect its decisions and resolution". In general, our Movement has respected the decisions of the UN. We refer consistently to UN resolutions in our declarations.

However, there are two significant omissions — UN Resolution 40/12, adopted by 122 votes in favour which called for the withdrawal of foreign forces in Afghanistan, and UN Resolution 40/7, adopted by 114 votes which called for the withdrawal of foreign forces from Kampuchea. We make up two thirds of the UN's membership. Clearly, therefore, the majority of our members have voted for these resolutions.

I am aware that some of our member states oppose a reference to these resolutions. Unfortunately, in rejecting the validity of just one resolution, these states are rejecting the validity of all. The logic of morality allows for no exception. If we reject one resolution, we are undermining all.

Our Movement has an overwhelming interest in the implementation of UN resolutions. Their implementation could dismantle the apartheid system in South Africa, resolve the dangerous situation in the Middle East, provide the Palestinian people a homeland and lead to the liberation of Namibia, to cite just four instances. Do we want to jeopardise our commitment to these issues by rejecting one or two resolutions?

By reiterating our faith in the UN resolutions and decisions without qualification, by declaring our independence of both superpowers, our Movement would find ourselves with a new moral sword with two sharp edges in our hand.

The moral sword is the primary weapon of our Movement. How quickly and effectively we achieve results with this weapon will also depend on other factors. We can wield the moral weapon to even greater effect if we are economically strong. The Movement has rightly taken up the fight against economic injustice and exploitation. The rich countries have an upper hand over the poor countries which should be redressed. It is a difficult struggle, which is compounded by mistakes in development strategies and decades of backwardness. The Movement has not made satisfactory progress in promoting the economic development of its members.

The fight against apartheid is also a struggle against the economic power of South Africa. There are heavy costs in such a fight. To be effective, to move from rhetoric to action, the members of the Movement cannot ignore the imperatives of economic logic. Economic

development must be an inseparable part of our fight against apartheid and other injustices.

The Special Session of the United Nations on the Critical Economic Situation in Africa adopted on 1 June 1986 a Programme of Action for African Economic Recovery and Development, 1986-1990. This clearly reaffirms the determination and commitment of African countries to achieve economic recovery and development. It is a step of major importance to the Non-Aligned Movement, and should profoundly influence its philosophy, priorities, strategies and tactics.

A Non-Aligned Movement that stands firmly on morality and economic development will become a force for the cause of developing countries. It will be a force that does not shun the real world for make-belief. With realism and righteousness, the Movement will help the poor and oppressed of the world carve their rightful place in the sun.