

## 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, 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 National University of Singapore 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

#### *COPYRIGHT LEGISLATION: COPYRIGHT ACT 1987 (No. 2 of 1987)*

After much consideration and discussion, the *Copyright Act* was passed on 26 January 1987 by Parliament. It received the Presidential assent on 14 February 1987 and came into force on 10 April 1987 (S 108/87).

Singapore has not signed any international copyright convention, and the Act is not, as such, passed in order to give effect to any. But its effect is not entirely local. Under sections 184 and 202, the Minister may make regulations to extend the application of any of the provisions of the Act to other countries. To date, the United States of America, and the United Kingdom of Great Britain and Northern Ireland have been gazetted under these sections (The Copyright (International Protection) Regulations 1987, S 110/87; The Copyright (International Protection) (Amendment) Regulations 1987, S 120/87; The Copyright (International Protection) (Amendment No. 2) Regulations 1987, S 185/87).

\* There are no materials under these headings in this issue.

## IV. TREATIES (OTHER THAN ASEAN INSTRUMENTS)

- (c) *DIPLOMA TIC RELATIONS WITH URUGUAY: Ministry of Foreign Affairs Press Release, 15 September 1987 (Singapore Government Press Release 25/Sep, 09-0/87/09/15).*

The Governments of Uruguay and the Republic of Singapore wishing to strengthen and develop friendly relations between them, have agreed to establish diplomatic relations between the two countries at ambassadorial level with effect from 15 September 1987.

## V. ASEAN TREATIES, DECLARATIONS AND OTHER INSTRUMENTS

- (b) *VIETNAMESE TROOPS IN THAILAND: Statement by Mr. S. Dhanabalan, Minister for Foreign Affairs, Singapore, in his capacity as Chairman of the ASEAN Standing Committee, on 11 May 1987 (Singapore Government Press Release 16/May, 09-1/87/05/11, Ministry of Foreign Affairs).*

Between January and March 1987, Thailand successfully dislodged Vietnamese troops from Thai territory at Hills 362, 382, 396 and 408 which are located as deep as 5 km from the Thai-Cambodian and Thai-Laotian borders in the vicinity of Chong Bok Pass, Ubon Ratchathani Province. Notwithstanding this success, ASEAN still notes with grave concern the continued presence of Vietnamese troops on Hill 500 in nearby rough terrain, some 2 km inside Thailand. Thai troops are still trying to dislodge them from Thai territory and have in the process suffered many casualties.

The present Vietnamese occupation to Thai territory is not only a clear violation of international law and the United Nations Charter but also a violation of the sovereignty and territorial integrity of Thailand. It is with the same disregard for international law and the United Nations Charter that Vietnam has occupied Cambodia with more than 140,000 troops since 1979.

ASEAN strongly condemns Vietnam for its present aggression against Thailand and calls on Vietnam to withdraw its troops immediately from Thai territory.

- (c) *ASEAN IN A CHANGING WORLD: Speech by Prime Minister Lee Kuan Yew of Singapore at the opening of the 20th ASEAN Ministerial meeting on 15 June 1987 in Singapore (Singapore Government Press Release 21/June, 02-1/87/06/15).*

It is my pleasure to welcome the ASEAN Foreign Ministers to their Annual Meeting in Singapore.

ASEAN has a twenty-year track record of regional cooperation which has contributed to the economic growth, social progress and political stability. It has made ASEAN a credible organisation. However, fundamental changes are taking place and the next twenty years will tax our ability and ingenuity as we chart new paths to growth and stability.

The four big Pacific powers, US, Japan, China, and the Soviet Union are all in the midst of basic change.

USSR and China have to make basic changes in their system to impart dynamism into their economies. Both have to free the energies of their peoples from the strait-jacket of central planning. Both have to move away from small differentials in wages and rewards, small in the name of egalitarianism, towards bigger personal incentives. Their dilemma is how to make the economic system more efficient and productive, without significant loss of the total political control to which their communist parties have been accustomed.

The Soviet Union is a military superpower. China is a developing country with vast problems in her modernisation programme. Despite their different stages of development, after 3-4 decades of unsuccessfully trying to gain political influence through military power and the supply of arms, both now realise that so long as their military power is counterbalanced by the West, their weight in diplomacy depends more on economic clout than on military muscle.

The US is faced with the problems of declining competitiveness. She has to overcome deep-seated problems. To exploit her abundant natural resources, technological knowledge and skills, and her lead in the scientific and industrial fields, she has to muster the political will to address the root causes of her enormous budget and trade deficits.

American Congressmen become more protectionist with every monthly release of trade figures which threaten to push the value of the dollar down and to push interest rates up. But in their hearts they know that protectionism is not the answer, and that it will be as disastrous as it was in 1930 with the Smoot-Hawley Act which triggered off the Great Depression. It is in our interest to have America recover her competitiveness and become a creditor not a debtor nation. If she does not, her position as the anchorman of the world's security will be gradually reduced. This happened to the British when they lost their economic predominance after the turn of the century and were weakened by World Wars I and II. Overwhelming US economic dominance after World War II was bound to lessen as Europe and Japan recovered from the ravages of World War II. But too rapid a decline of US dominance will not give time for a readjustment of forces across the Atlantic and the Pacific.

Furthermore the American market is our most important. A loss of American élan will have serious consequences for us. If serious economic problems plague the US economy, we shall have trouble with our own. So we have to hope that there will be more concerted co-ordination among the industrial powers to check the slowdown in the world economy. The Americans have been urging both Japan and West Germany to help keep up world demand by increasing their domestic demand.

Japan faces the problems she has created for her trading partners through her massive trade surpluses. She has to move away from export led growth to domestic demand. Japan is capable of a major role in the international economic system. She can help revitalise it. With her strong lead in technology, her disciplined social system, and

strong administration and efficient business management, Japan's success is no flash in the pan. If her trade is more in balance, she can keep up her growth indefinitely.

A stronger Japan should have a broader economic and political role internationally. But she must allay deep-seated fears of a revival of her militarism. Japan can counter the protectionist tide and set an example for the world by opening her markets, generating domestic growth and investing abroad, including investing in ASEAN. We look to Japan to increase economic cooperation with ASEAN through more investments and more trade.

Twenty years ago, when ASEAN Foreign Ministers first got together in Bangkok, there was no Soviet Fleet in the Pacific, nor Soviet bombers and submarines in Danang and Cam Ranh Bay. The Japanese economic miracle was barely perceived. What will it be like twenty years from now? Will the Soviet or the Chinese economies shake off the stifling hand of central planners with their set prices, production targets which disregard quality control, and their disdain for market demand or supply which is settled by prices in free markets? If party cadres remain powerful and in charge of their enterprises, how can their economy flourish?

Will Japan forge a new consensus to restructure her economy in a manner which will inflict smaller trade deficits on her trading partners? Can America continue as the leader, the buyer of last resort, the anchorman of the free market economies? The outcome of their exertions to break through their respective problems will settle the new balance of these competing forces in the Pacific.

On ASEAN's major security problem, the Vietnamese occupation of Cambodia, the chances of a negotiated settlement have increased. There have been re-assessments of positions in Moscow and Hanoi. Both have put the revival of their economies at the top of their priorities. An eventual Cambodian settlement through negotiations, followed by withdrawal from Cambodia, is more likely than continuing Vietnamese defiance. Hanoi knows her isolation is the direct result of her present policies, and this isolation has inflicted too heavy a burden on her economy.

Vietnam has said she will withdraw her troops by 1990. ASEAN is willing to help work out an honourable formula which respects the Cambodian people's rights as well as the security interests of Vietnam. ASEAN wants to live in peace with its three neighbours in the Indochina peninsula. Vietnam need not leave the solution of her Cambodian dilemma to just the Soviet Union and China. ASEAN participation under UN auspices is likely to lead to a better solution for Vietnam and the region.

ASEAN countries themselves are undergoing major changes. The generation born when ASEAN was formed twenty years ago has come of age. Those below thirty years of age make up two-thirds of ASEAN's population. They know little of the past conflicts in the region. They know little of how acutely divergent perceptions have led to misunderstandings and tensions in the past. They have to learn without repeating the errors of the past, that ASEAN cooperation is infinitely

preferable to the costly strife and confrontations which result when competing national interests are allowed free rein.

The leaders of ASEAN are also preparing the way for younger leaders to take charge, either at the end of the 1980's or in the beginning of the 1990's. Much depends upon whether this second generation of leaders is able to maintain the pragmatic working relationships of the older leaders, who have, over the years, developed close relationships based on confidence and trust.

Sooner or later the world economy will enter a new cycle of growth and prosperity. We would do well to restructure our economies and prepare ourselves for this next surge of high economic activity.

It is the vitality of the international economic system that decides our fortunes, including those of the industrial countries. So the G5 countries, all of them fortunately our dialogue partners, have submitted themselves to the constraints of cooperation in currency exchange rates, domestic deflation or reflation policies, budget and trade deficits or surpluses. And because their Finance Ministers and Central Bankers meet several times a year, they have prevented an economic crisis.

When these big powers accept restrictions on their economic sovereignty in the interests of the whole system, we do well to recognise that if we take steps which diminish the flow of capital, goods and services between ourselves, we shall harm each other. On the other hand, by increasing cooperation we shall all benefit by way of bigger foreign investments, more industrialisation, and greater growth in trade and tourism.

ASEAN is holding a Summit at the end of this year. We are all conscious of the more adverse economic climate for trade and economic growth. ASEAN cooperation and solidarity can improve economic growth for all. After twenty years, we know our strengths and limitations. It is time to move forward and open up a new phase of ASEAN cooperation. All ASEAN members are better off economically and politically now than in 1967 because of the climate of stability, and the growth and development that this climate made possible. This Ministerial Meeting should help ensure that the future of ASEAN will be as constructive and fruitful as the last twenty years have been. I take great pleasure in declaring it open, and wish you success in your efforts.

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

*ROLE OF THE UNITED NATIONS: Speech by Mr. S. Dhanabalan, Minister for Foreign Affairs at the 42nd United Nations General Assembly on 22 September 1987 (Singapore Government Press Release 42/Sep, 09-1/87/09/22).*

The Assembly is being held at a time when profound changes are underway in the basic structures and processes of international politics. A summit between President Reagan and Mr Gorbachev will be held towards the end of the year. The two superpowers are on the

verge of concluding important arms control agreements. At the same time, relations between China and the Soviet Union now include an increasingly important cooperative dimension.

These developments do not only concern the three great powers directly involved. When these powers reorder their relationships, the ripples spread to the farthest corners of the international system. None of us can escape their consequences. We must all also adapt to these changes. Readjustment is never easy. Cherished habits of thought, ingrained patterns of behaviour and comfortably familiar policies must be ruthlessly and dispassionately examined in the light of the new situation and, if necessary, discarded. Human nature being what it is, this is necessarily a painful process. But it has to be done.

I was reminded of this simple fact by a recent statement made by an important international leader. At a meeting of disarmament experts organised by the UN held in June this year, he said:

“... we had to review analytically the traditional approaches to, and established notions about peace and security. In other words, we had to apply new thinking to that major issue of our times. In the process of sorting out outdated dogmas and stereotypes, we made, at least two fundamental conclusions. First, in terms of the supreme interests of survival, the world is one, notwithstanding its diversity....Second, the security of any state would be greater if it abandons the attempts to diminish the security of the other side.”

This statement was made by the Deputy Foreign Minister of the Soviet Union, Alexander Bessmertnykh. If a superpower recognises the need for change, no other country should deceive itself with the illusion that it can keep to the well trodden path. History is littered with the rubble of states that tried to do so.

Mr President, the United Nations is itself the consequence of a similar period of international readjustment that occurred after the Second World War. It was intended to reorder the manner in which the international system worked and the way in which states dealt with each other. If its purposes and promise have not been entirely fulfilled, and human nature has proven more intransigent than expected, we should nevertheless ask ourselves what role the UN can play in helping the vast majority of its members adapt to the profound transformations that are now underway. We, the small states of the Third World, make this majority.

I believe the UN has an important role to play. To dismiss it as irrelevant is easy, cheap, cynical and a serious mistake. Few, if any, of us present here are privy to the private discussions of the great powers. Few, if any, of us have the ability to directly influence the recalculations of national interests that are occurring as the great powers slowly but inexorably reorder their relationships. Only in the United Nations can we meet as formal equals.

The United Nations, for all its obvious imperfections, is still the only organisation that has at least the potential to protect the rights and interests of small states. Great powers may be able to do without international institutions. But to Namibians and Palestinians fighting

for their homeland, to the South Africans battling the evil system of apartheid and to all oppressed peoples everywhere struggling against foreign invasion and occupation, only the UN offers some hope that their interests will not be cast into oblivion as the great powers reposition themselves.

The United Nations is thus uniquely situated to help the smaller states adapt to changing patterns of international politics. Only in the UN are our interests protected. And only the UN can define issues in a manner that helps ease the painful process of readjustment. It does so because when the international community speaks through the adoption of UN resolutions by overwhelming majorities, no state, even if it does not wholly support a particular resolution, should feel threatened. Every state, whatever its particular interest, is also part of that same international community. The UN compels states, even against their will, to recognise what is ultimately in their own best interest. It would be a mistake to regard the UN merely as a reflection of national interests. The UN speaks for us all, and in upholding universal principles of law and justice, the UN transcends the national and specific by speaking also to that irreducible core of common interests that bind us together, whatever else may divide us.

It is an axiom that states act in their own interests. But the UN is in all our interests. No state, however intransigent, however indifferent, can therefore indefinitely ignore the United Nations. A case in point is an issue of vital importance to my country's region: Kampuchea. As a study of how the UN has influenced the definition of member states' interests, Kampuchea is an issue of more than parochial significance.

When the UN Security Council first met to discuss the invasion and occupation of Kampuchea in January 1979, Vietnam at first denied that it had sent any of its forces into Kampuchea. Later it claimed that it had only sent in "volunteers". Finally, under the pressure of the UN, Vietnam admitted that it had sent its armed forces into Kampuchea but it insisted that they had entered at the "invitation" of the regime it had installed in Phnom Penh after the invasion, an attempt to suggest that the cart had pulled the horse into Kampuchea.

UN pressure has also changed Vietnam's position on the crucial issue of whether a political settlement is necessary in Kampuchea. On 5 January 1980 the Vietnamese Foreign Minister and some of his "Indochinese colleagues" signed a communique which dealt with Kampuchea. He said "the situation in Kampuchea is irreversible". He also affirmed that efforts to "find a political solution for Kampuchea were in vain and useless". Six and a half years later, after successive General Assembly resolutions had enjoined his country to agree to a political solution, the Vietnamese Foreign Minister, at a similar meeting, signed a communique acknowledging that he had to work with other countries "to reach a political solution on the Kampuchean question". To have moved from a denial that a problem exists to an admission that there is a problem that can only be solved by political means is a significant first step.

The UN can take credit for this important first step. But it is only a first step. For Vietnam to take the next step of actually commencing

negotiations to find a political solution, the UN must persuade Vietnam by continuing to take a firm position on the issue. For a political solution to be durable, it must be just. It must address the common concerns of the parties involved and not merely be a cover to impose one state's will over another by duplicitous means.

This simple truth was stated with clarity and brevity by Mr Gorbachev when he said "The ultimate wisdom lies not in thinking solely or oneself, and worse still to the detriment of the other side. All must feel they have the same degree of security." We hope that Mr Gorbachev's friends and allies will share his insight and take his advice.

In formulating proposals that embody this principle, the UN also has a vital role to play. The resolutions of the General Assembly on the situation in Kampuchea that have been adopted time and again by overwhelming majorities, sketch out the framework for such a solution. They take into consideration the interests of all parties concerned, not the least of which are Vietnam's interests. And because they reflect the voice of the international community, UN resolutions should not be regarded as a victory for one state or one party over another, but rather as triumphs of our common humanity. There should be no dishonour or disadvantage in complying with the UN.

One recent proposal which is fully in accordance with the UN spirit is that by my Indonesian colleague, Professor Mochtar Kusumaatmadja, to convene an informal meeting among all Kampuchean parties. Such a meeting takes into account the fact that the Kampuchean problem also has to be resolved between the different Khmer factions, a point that Vietnam has maintained ever since the Kampuchean issue was first considered by the UN Security Council in January 1979. But it is obvious that Vietnam, as the state whose military forces and civilian administrators are in occupation of Kampuchea, holds in its hands the unique ability to determine whether such a meeting among the Khmers will be meaningful or a mere charade. Professor Mochtar's proposal therefore envisaged that Vietnam should respond to our good faith consideration of its interests by participating in the meeting of the Khmers, though not necessarily at its initial stage. Unfortunately, Vietnam has refused to acknowledge that it holds the key to the solution of the Kampuchean problem and has not agreed to participate in such talks.

Instead Vietnam has tried to distort the nature of the understanding that was reached. It was loudly claimed that some kind of agreement was reached between ASEAN and the "Indochinese states" and that the international community can best help by refusing to take a position that will support one side or the other. The bald and simple fact is that Vietnam has not agreed to participate in any discussion that will lead to the withdrawal of its military forces from Kampuchea and that will enable Kampuchea to re-emerge as an independent nation.

It would be a tragedy for the Kampucheans, for the South East Asians and for the international community if the UN does not continue to take a clear and principled stand on this issue. It was the pressure of the UN that forced Vietnam to accept the fact that a



Kampuchean problem exists and that it requires a political solution. It will also be the continued pressure from the international community that will force Vietnam to accept a solution based on the principles of the UN Charter.

The efforts of the international community and the efforts of the South East Asian states to find a solution are mutually complementary, not mutually exclusive. The ASEAN states will continue with their good faith efforts to find a solution. We will stay in close touch with Prince Norodom Sihanouk who has sent a valuable political signal to Vietnam by deciding to take leave for a year to make himself available to discuss with any party in order to move towards a solution of the Kampuchean problem. Prince Sihanouk remains the only Kampuchean leader who is widely respected both inside and outside Kampuchea. No viable political solution can be found without Sihanouk's participation. The international community should urge the Vietnamese leaders to talk directly to him.

Mr President, history has demonstrated that all attempts to deny international change must ultimately be futile. Reality has an inconvenient habit of imposing itself on even the most ostrich-like. As the major powers make the recalculations that will shape the international politics of the next century, our participation in the UN helps ensure that we adapt to the new situation without too long a delay and without too much pain. But even as we acknowledge the necessity of adaptation, we must not lose sight of certain constant and fixed points of reference. The UN Charter embodies such points of reference and contains the basic moral principles that it is our duty to cleave to even as we adapt to survive.

Herein lies the uniqueness of the UN; it is a vehicle for steadfastness as well as change; a means of ensuring that the necessary and inevitable adaptations will be purposeful rather than random or cynical. It is for this reason that, despite the inevitability of disappointments along the way, I continue to believe that with the perseverance and dedication of this body, just solutions to Kampuchea, the Middle East, South Africa, and the many other troubled regions of the world are still possible. The UN is a sophisticated instrument that enables its members to safely navigate the treacherous shoals of international politics to reach the safe harbour of international order. It remains the duty of members to find the will to use it.