

## SINGAPORE AND INTERNATIONAL LAW

THE objective of this section is to reproduce materials and information which illustrate Singapore's attitude to, and approaches on, questions of international law. As far as possible, primary materials are reproduced but where they are 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. Association of South-East Asian Nations (ASEAN) Treaties, Declarations and other Instruments
- VI. Singapore in the United Nations and other International Organisations and Conferences

The materials are compiled from various sources, including Singapore Government Press Releases. It should be stressed that any text reproduced herein is not to be regarded as officially supplied to the OOOO.

The following extracts are taken from speeches and statements, etc., to focus on key issues.

### I. POLICY STATEMENTS

- (a) *AIR TREATIES: Speech by Dr Yeo Ning Hong, Minister for Communications and Second Minister for Defence, on Monday, 4 February 1991 (Singapore Government Press Release No: 02/FEB, 03-1/91/02/04)*

It is yet unclear whether the European Commission will ultimately assume the role of aviation negotiator between its member states collectively and non-EC countries. If they do, the challenge for the EC countries will be to resist the temptation of creating a 'Fortress Europe'. Fifth freedom traffic by non-EC carriers carried from one EC country to

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\* There are no materials under this heading in this issue.

another risk being classified as cabotage traffic. The temptation then will be to restrict the grant of such rights to non-EC carriers.

Should 'Fortress Europe' emerge, pressure on the non-EC States to form regional coalitions to negotiate with the EC will increase. This would be a dangerous development and may reverse the achievements of the last decade when air services saw a distinct move towards greater liberalisation. The end result could be a restrictive world aviation market comprising various regional 'fortresses'.

...Singapore has also granted hubbing rights at Singapore for British carriers, which are allowed to operate hub services out of Singapore to any point in Asia and the Southwest Pacific. This firm step forward in international aviation liberalization marks a milestone in aviation history. By being the first country to offer substantive hubbing rights, Singapore has significantly contributed to the goal of deregulatory freedom in global commercial aviation. We have also granted hubbing rights for freighter services to United States carriers. We will continued to pursue such innovative and liberal approaches.

## II. LEGISLATION

The following regulations were made by the Minister for Communications pursuant to the Prevention of Pollution of the Sea Act 1990 (No. 18 of 1990) which came into effect on 1 February 1991:

- The Prevention of Pollution by Oil Regulations 1991 (S 58/91)
- The Control of Pollution by Noxious Liquid Substances in Bulk Regulations 1991 (S 59/91)
- The Reporting of Pollution Incidents Regulations 1991 (S 60/91)
- The Reception Facilities for Pollutants Regulations 1991 (S 61/91)
- The Detergents and Equipment for Pollution Reduction Regulations 1991 (S 62/91)
- The Prevention of Pollution of the Sea (Composition of Offences) Regulations 1991 (S 63/91)

## V. ASSOCIATION OF SOUTH-EAST ASIAN NATIONS (ASEAN) TREATIES, DECLARATIONS AND OTHER INSTRUMENTS

- (a) *ASEAN AND THE ENVIRONMENT: Speech by Dr Ahmad Mattar, Minister for the Environment, at the Opening Ceremony of the ASEAN Workshop on Risk Assessment and Management of Chemical Hazards held at the Environment Penthouse on Monday, 12 November 1990 (Singapore Government Press Release No: 181 NOV, 07-1/90/11/12)*

..., expertise in risk assessment and its management is lacking in both the public and private sectors of the ASEAN region. I applaud the former

ASEAN Experts Group on the Environment (AEGE) for realizing the need of the region and pushing for the Workshop on Risk Assessment and Management of Chemical Hazards to be organized.

This Workshop is designed to cover the basis concept of risk assessment and management, risk perception, hazard identification and exposure assessment. It will also be an opportunity for participants to learn of the policies and strategies used by USA and Japan to manage chemical risks.

There is an increase in the level of cooperation and economic investments between ASEAN member countries, and between the region and the international community. In order that industries may only engage in safe operating practices, it will be most beneficial if the procedure for regional risk assessment and management can be harmonized among ASEAN member countries.

I am told that the participants will produce, during this Workshop, a set of guidelines for risk management, accident prevention and emergency responses in the ASEAN region. I hope that they will succeed in producing regional guidelines that can be readily endorsed as national action plans in their respective countries.

- (b) *RIAU AND SINGAPORE: Speech by Mr Mah Bow Tan, Minister of State for Trade and Industry, Republic of Singapore at the Opening of the Indonesia-Singapore Joint Investment Promotion Seminar in Osaka and Tokyo, 10-12 December 1990 (Singapore Government Press Release No: 07IDEC 15-2/90/12/10)*

I am happy today to be present together with His Excellency Mr Tunku Ariwibowo at the opening of this "Indonesia-Singapore Joint Investment Promotion Seminar". This investment seminar is different from other seminars in two aspects.

Firstly, it is the first investment promotion seminar that Singapore has undertaken jointly with Indonesia. This is possible because of the close relationship that Singapore has with Indonesia, which is endorsed at the highest political level in both countries. Secondly, it is an investment seminar aimed at promoting the attributes and advantages of a region, rather than a specific country. This represents a new phase of economic cooperation between Indonesia and Singapore, which I believe will bring substantial benefits not only to Indonesia and Singapore, but also to companies seeking to invest in the dynamic Asia-Pacific region.

....From our experience, MNCs coming to Asia look for two sets of requirements, namely a plentiful supply of resources, such as workers and land at competitive prices and secondly, an adequate level of infrastructure, skills and support facilities. The combination of these two factors will offer MNCs the best of both worlds.

In practice, this is hard to achieve. No country can by itself, offer both a plentiful supply of basic resources at competitive prices and

yet provide a sophisticated level of infrastructure, skills and support facilities.

However, within this region of South-East Asia dubbed the "Growth Triangle", such a combination of factors are available. This is made possible because the three components of the Growth Triangle, namely Johore, the Riau Province and Singapore, are at different stages of economic development.

The decision of Indonesia and Singapore to undertake a joint economic cooperation programme to develop the Riau Province has made the combination of inexpensive primary resources together with comprehensive infrastructure available. Together, Singapore and the Riau Province provide a unique mix of resources, infrastructure, labour and skills. Companies can now use both areas to broaden their base, and to support activities covering the entire range of their business value chain.

Although Singapore and the Riau Province are in different countries, it is the goal of both governments to cooperate in order to enable companies to view the two as effectively one investment region so that the advantages of each area can be maximised. For this purpose, the two governments are committed to facilitating the free flow of goods, services and investments between the two regions.

#### *Indonesia-Singapore Agreements*

The high level of commitment by Indonesia and Singapore is reflected in two Agreements which were recently concluded between our two countries. These were:-

- (a) the Agreement on Economic Cooperation in the Framework of the Development of the Riau Province; and
- (b) the Agreement on the Promotion and Protection of Investments.

The first Agreement expands an earlier Batam Economic Cooperation Agreement signed in 1980. Under the new Agreement, Indonesia and Singapore have agreed to, among other areas:-

- (a) Simplify procedures for the flow of goods between Singapore and the Riau Province;
- (b) Promote international investments in tourist resort and tourist infrastructure in the Riau Province;
- (c) Cooperate in the sourcing, supply and distribution of water to Singapore; and
- (d) Cooperate in the industrial development of the Riau Province.

Beyond the Agreements, however, cooperation projects have already been implemented. A concrete example is the Batam Industrial Park,

a private sector joint venture between Indonesian and Singapore companies. I will leave it to His Excellency, Tunky Ariwibowo to elaborate on developments in the Batam Industrial Park.

...The combination of Singapore and the Riau Province brings benefits to all parties concerned - for Singapore, the ability to help our corporate clients expand within close proximity to Singapore so as to retain business linkages; for Indonesia, expanded investment and employment; for the companies, enhanced competitiveness in the global market.

Beside Batam, land on Bintan have been set aside for joint Indonesia-Singapore industrial development. This joint industrial project on Bintan will cater to light industries. In addition, a 10,000 hectare joint tourism projects is also being developed on the Northern coastline of Bintan. His Excellency, Mr Tunky Ariwibowo will be elaborating on these developments.

#### *Incentives to Investors*

Both our governments are committed to the cooperation. The fact that an Indonesian Minister and a Singapore Minister are here together to promote the concept demonstrates that we view this as serious business proposition. Both parties have taken concrete steps to demonstrate their commitment.

Singapore has introduced the following measures to support Singapore-based companies moving into the Riau Province and the region:

- (a) Firstly, companies are allowed to bring workers from these regional operations into Singapore for training at the supervisory and technician level. This will enable them to have quick start-up for their regional operations. At present, six Singapore-based companies have brought in Indonesian workers for training in Singapore in preparation for the start-up of their operations in Batam in early 1991.
- (b) Secondly, companies can apply for exemption from Singapore tax for income generated from the companies' regional operations that is repatriated back to Singapore. This will enable the companies to reinvest their profits in the region.
- (c) Thirdly, additional tax incentives may be granted to Singapore-based companies which distribute some of their operations to the region and at the same time upgrade their facilities in Singapore.

I will leave it to His Excellency Mr Tunky Ariwibowo to comment about Indonesia's incentives to attract investors to the Riau region. The specific incentives by our two countries to support companies' investment in the Singapore-Riau region demonstrate our commitment to making this region a competitive and attractive business location.

- (c) *ASEAN'S ROLE: Speech by Mr Goh Chok Tong, Prime Minister and Minister for Defence, at the State Banquet hosted by President Suharto at Istana Merdeka on Wednesday, 9 January 1991 (Singapore Government Press Release No: 05/JAN, 02-1/91/01/09)*

My duty is to build on what has already been achieved. I will encourage Singapore leaders, officials and people to visit Indonesia and promote better mutual understanding. We will look for new creative ways to expand the areas of co-operation.

Our joint efforts to promote economic development on Batam and in Riau have taken off. Batam Industrial Park has moved quickly ahead. Last month, our companies passed another milestone in co-operation when we participated in a joint investment promotion exercise in Japan. Projects on Bintan will soon add more links between our countries.

These projects demonstrate tangibly our intention to build a long-term relationship based on active co-operation. They are powerful signals that we can and will co-operate more in economic fields. I believe that if we can emit more such powerful signals of co-operation, investors will take note and tune in.

Our good bilateral relations strengthen the overall framework of ASEAN co-operation. A tightly-knit ASEAN will help all of us face the challenges of the 1990s. Singapore will work closely with Indonesia and other members of ASEAN to strengthen ASEAN co-operation in all fields. I support Your Excellency's call for the acceleration of ASEAN economic co-operation and the expansion of intra-ASEAN trade. It is time to move forward.

The world is entering a new phase. So must ASEAN. In the first phase of co-operation, ASEAN achieved a consensus on our core common interests. In ASEAN we now share basic values and attitudes. In the 1990s, after the earth-shattering changes in the global balance, countries like Myanmar, Vietnam, Laos and Cambodia, will, I believe, discard their out-dated and unsuccessful economic systems. There are both opportunities and challenges for ASEAN, similar to what Eastern Europe is to Western Europe, though not on the same scale. ASEAN can help them link up with the free market economies. We want them to succeed, for when they grow, they will increase ASEAN's prosperity. In the 21st century, there will be a crescent of prosperity from South Korea, Japan, China, Taiwan, Vietnam, Laos, Cambodia, Myanmar, down to the six ASEAN states.

This crescent of prosperity is a rich region, at different levels of economic development and therefore complementary more than competitive. But as in all economic fields economic co-operation includes competition to get ahead on the next level of technological advance. Nonetheless, we can best realise our ambition of improving the lives of our peoples by working together. The very act of cooperation will generate confidence and attract investment and growth.

This East Asian crescent is the macro-version of the central principle of the Riau-Johore-Singapore growth triangle: our diversity is a strength that allows us to take advantage of global economic forces for mutual benefits. It allows us to co-opt and utilise each other's comparative and competitive advantages in the international market. All will benefit as East Asia and ASEAN grow.

- (d) *COMMENTS ON THE EAST ASIAN ECONOMIC GROUPING: Comments by MFA Spokesman on Meeting between Mr Wong Kan Seng, Minister for Foreign Affairs of Singapore and Dr Arthit Ourairat, Foreign Minister of Thailand, on Saturday, 26 January 1991 (Singapore Government Press Release No: 171 JAN, 09-091/01/26)*

The Ministers met at the Ministry of Foreign Affairs and had a general exchange of views on a wide range of subjects, including bilateral relations, ASEAN, growth prospects for the region, the Gulf crisis and the East Asian Economic Grouping (EAEG).

On bilateral relations, they agreed that there were no problems between Singapore and Thailand and that there was great potential for more mutually beneficial cooperation. Minister Wong made the point that Thailand's economic prosperity enhanced confidence in the region as a whole and was therefore beneficial to all countries in the region.

The Ministers strongly supported enhanced ASEAN cooperation and expressed their confidence in the growth potential of Southeast Asia and the prospects for continued investments from the US, Japan and Europe.

On the Gulf crisis, the Ministers agreed that it was important to support the relevant UN resolutions and basic principles of international law. They hoped that the war would be as short as possible.

The Ministers also discussed the Malaysian proposal for an EAEG. They expressed their support for it. They noted that it would be complementary to existing groupings such as ASEAN and APEC.

- (e) *PAHANG AND SINGAPORE: Speech by Mr Mah Bow Tan, Minister of State for Trade & Industry and Communications at the Seminar on "Trade and Investment Opportunities in Pahang" at the Shangri-la Hotel on 28 January 1991 (Singapore Government Press Release No: 20/JAN, 15-2191101128)*

... In recent years, sharp currency movements have created even more opportunities for arbitrage of production costs. More MNCs have taken this path of locating their production overseas. Malaysia and Singapore have been two of their more favoured locations. In the process, the linkage between our two economies has been strengthened. More of such business linkages can be envisaged, as the economies of Malaysia and

Singapore develop. There will be many areas where we will complement one another. In such cases, when we cooperate, we both gain. Of course, there will also be areas of overlap, areas where we compete. Even when we compete, we can gain, if in the process, we increase the size of the pie and we strengthen ourselves to compete with those from outside the region.

*Conclusion: Pahang - Singapore Combination?*

... The point is this: Pahang and Singapore are two separate economies at different stages of development, each possessing its own distinct advantages, one complementing the other. Growth in one area is not at the expense of the other. It is not a zero-sum game.

The state of Pahang is rich in nature resources. You want to develop these resources. Your development potential is tremendous. We want to be a part of this growth. We can benefit by doing so. We can strengthen our role as a hub city for the region. We can also overcome our own shortages - land and people. The best relationships are those where all parties involved gain.

- (f) *RATIFICATION OF DOUBLE TAXATION AGREEMENT BETWEEN SINGAPORE AND INDONESIA* (Singapore Government Press Release No: 29/JAN, 08-0191101/25)

An Agreement for the Avoidance of Double Taxation between the Republic of Singapore and the Republic of Indonesia was signed in Singapore on 8th May 1990. This Agreement has entered into force on 25th January 1991 upon completion of the ratification procedures through the exchange of diplomatic notes between the two States. The provisions shall take effect from the year after the year of ratification. As Singapore imposes tax on the preceding year basis, the first year of application will be the year of assessment 1993.

The Agreement is designed to eliminate double taxation and promote greater flow of trade, investment and technical know-how between the two countries. To achieve these objectives, the Agreement provides for limitation of tax by the country of source on dividends, interest and royalties paid to residents of the other country. The rates of tax are not to exceed 15 per cent for dividends and royalties and 10 per cent for interest. The Agreement also provides for both countries to give credit for tax paid in the other State.

Profits derived by residents of one country from the operation of aircraft in international traffic are only taxable in that country while profits from the operation of ships in international traffic shall be taxed in the other country at fifty per cent of the normal rate.

Singapore now has in force Avoidance of Double Taxation Agreement with twenty-six countries. This large network of treaties enhances Singapore's

position as a financial centre and will now also facilitate multi-nationals to use Singapore as a base for investments in Indonesia.

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

- (a) *GATTAND SINGAPORE: Speech by Mr Mah Bow Tan, Minister of State for Trade and Industry, Republic of Singapore at the Meeting of the Trade Negotiations Committee at Ministerial Level in Brussels, Belgium on 3 December 1990 (Singapore Government Press Release No: 04/DEC, 15-2/90/12/03)*

As a trading nation, Singapore attaches great importance to achieving results in strengthening GATT disciplines on countervailing duties and anti-dumping measures to ensure that they are not used as a protectionist instrument and a harassment against legitimate trade. The MFN principle in Safeguards measures should be maintained. The results of the Uruguay Round are meaningful to us if these two elements are achieved.

We are now at the final stage of the Round. Ministers are confronted with the daunting task of having to decide on a multitude of key issues that are not yet resolved by our negotiators.

Like all other countries represented at this meeting, we have all benefited from the principles of the multilateral trading system enshrined in GATT. Though they have served us well, these principles are by no means perfect in the way they have regulated world commerce over the last 40 years. To enable world trade to progress further without the threat of trade wars, the Uruguay Round must produce a package of results which can sustain growth in world trade for the next 10-20 years.

Ministers will recall that there was much lobbying among the contracting parties on the coverage of the Uruguay Round at its launch. Led by the United States, there was a move to include new areas into the Round. There were countries taking extreme positions to exclude these areas. Singapore participated in the launch of the Round with a constructive approach. We took a moderate position on this. There were areas of negotiation for which we would preferred to have been left out of the Round. But we co-operated where it was crucial in seeking consensus and in order that we may have as wide a participation as possible. We joined in the process to get the Round launched, encouraged others to come on board and collaborated to give it the necessary impetus at its Mid-Term Review. This was important because together with a community of small nations highly dependent on trade, we wanted the trading rules to be made open and fair, to inject greater competition in world trade. We wanted an overall package for the Round which could help sustain the international trading system.

However, four years later, the Round is coming to an end with a major impasse on Agriculture. We are aware that the issues before us

are more convoluted and have more far-reaching consequences than would have faced negotiators in previous Rounds. As a free trading nation, we believe that trade should not be distorted by subsidies and that the principle of comparative advantage should dictate the flow of commerce. However, we recognise that there are political considerations that the EC faces. We therefore urge the EC to improve its offer on Agriculture in order that the Brussels process can be unblocked, and to minimise subsidies if they cannot be removed. There will be a political cost to be paid. However, this cost cannot be higher than the cost that a failure of the Round will inflict on the world trading system. The USSR and several East European countries are today restructuring their economies. The political cost of such moves is high. But they pay this price in order that they may join the community of free market-oriented economies. There is a lesson we can learn from these countries to see that the rewards of success overwhelm the costs of changes.

There is still scope for a comprehensive package to be put together which can bring substantive results. However, unless there is political will to shrug off the demands of protectionist interests, and unless Ministers make the right decisions in the next few days, we would all share the consequences of our own misjudgments. The failure of the Round will haunt us for a long time to come.

- (b) *UN RESOLUTIONS AND THE GULF CRISIS: Comment by MFA Spokesman, 17 January, 1991 (Singapore Press Release No: 14IJAN, 09-0/91/01/17)*

The Singapore Government supports the military actions taken by the multi-national force in the Gulf to implement the UN Security Council Resolutions, especially Resolution 678.

The Singapore Government deeply regrets the failure of the peace initiatives undertaken to implement the UN Resolutions, including the mission undertaken personally by the UN Secretary General. The international community could no longer do nothing given Iraq's continued defiance of the UN Resolutions. Failure to implement the UN Resolutions would have undermined respect for international law as well as the credibility of the UN. This would not be in the long-term interests of all nations, and especially small states like Singapore.

The Government hopes that the military actions taken in the Gulf will quickly end the unlawful Iraqi occupation of Kuwait with a minimal loss of life.

- (c) *SINGAPORE'S CONTRIBUTION TO THE GULF CRISIS: UFA Press Statement, 17 January, 1991 (Singapore Government Press Release No: 161 JAN, 09/0/91/01/17)*

With the outbreak of hostilities in the Gulf, the Government is sending a 30-member SAP medical team to Saudi Arabia on 18 January 1991 as a humanitarian gesture by Singapore in accordance with United Nations Security Council Resolution 678.

The team of doctors and other ancillary personnel includes regulars, as well as National Servicemen and reservist who have volunteered for the mission. They will be stationed 400 km behind the frontline at a British Army Rear Hospital. They will provide medical care and attention to the wounded, including prisoners-of-war.

- (d) *THE LIBERATION OF KUWAIT: Statement by Minister for Foreign Affairs, Mr Wong Kan Seng (Singapore Government Press Release No: 181FEB, 09-0/91/02/28)*

Singapore welcomes the announcement by President Bush that the US and its coalition partners were suspending hostilities in the Gulf war. It hopes that the Iraqi Government will speedily accept all the resolutions of the UN Security Council, and end the sufferings of the Iraqi people.

Singapore shares the joy of the Kuwaiti people at the liberation of Kuwait. We have fully supported all international efforts to bring this about. We hope that the situation in Kuwait will soon return to normal so that the massive reconstruction task can begin.

The resolute and decisive actions of the multinational coalition to oppose aggression and enforce the decisions of the UN Security Council have strengthened the UN and made the world a better and a safer place. The international community has resoundingly reaffirmed its commitment to the principles of the UN Charter. The UN and the US should now work to resolve the major outstanding issues in the Middle East, including the Palestinian problem to bring more durable peace and stability to the region.

## ASEAN SECTION

THE Association of South-East Asian Nations (ASEAN) comprises Brunei Darussalam', Indonesia, Malaysia, the Philippines, Singapore and Thailand. This Section is intended to include articles, comments and notes on the laws of the various ASEAN member states other than Singapore as articles, etc., on Singapore appear elsewhere in this Journal (see "Notes to Contributors"). For the international law aspects involving Singapore and ASEAN, including treaties, see SINGAPORE AND INTERNATIONAL LAW.

*ASEAN Section Editor*

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