

SINGAPORE AND INTERNATIONAL LAW

This section was introduced for the first time in the December 1977 issue of the Review (1977) 19 Mal. L.R. 401. Its objective is to reproduce materials and information that will illustrate Singapore's attitude to, and approaches on, questions of international law and international organisations. As far as possible, primary materials will be reproduced but where unavailable, and the topics are important, secondary materials including relevant extracts from newspaper reports will be reproduced. The materials will be 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

Owing to limitations of space, the materials reproduced in the section will be selective. As the materials are compiled from the Law Library and other sources, it should be stressed that any texts contained herein are not to be regarded as officially supplied to the Review.

II. LEGISLATION

The Merchant Shipping (Amendment) Act 1981 (No. 6 of 1981) made several amendments to the Merchant Shipping Act (Cap. 172, Singapore Statutes, Rev. Ed. 1970).

One of the amendments amends section 2 of the Act by deleting the definition of "Safety Convention" and substituting the following definition:

" 'Safety Convention' means the International Convention for the Safety of Life at Sea signed in London on 1st November, 1974, and any amendment made thereto which has come into force and has been accepted by the Government; "

This amendment enables Singapore to accede to the 1974 Convention, which has replaced a similar Convention made in 1960.

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

IV. TREATIES (OTHER THAN ASEAN INSTRUMENTS)

- (a) *TAXATION: Press Statement, 23 June 1981, on Ratification of the Protocol Amending the Convention for the Avoidance of Double Taxation Between Singapore and Japan (Singapore Government Press Release 08-0/81/06/23, Ministry of Finance)*

A Protocol to amend the existing Convention for the Avoidance of Double Taxation between Singapore and Japan was signed on 14 January 1981. The Protocol was brought into force on 23 June, 1981 following an exchange of Notes between the two Governments in Tokyo. It takes effect in both countries from the year of assessment or taxable year commencing on or after the first day of January 1982.

The main feature of the Protocol is the extension of the tax sparing credit provision to include income exempted by Singapore in respect of some of the tax incentives introduced in 1979 under the Economic Expansion Incentives (Relief from Income Tax) Act. The types of income to which the tax sparing credit has been extended are:—

- a the exempt export income of an international trading company engaged in international trade in manufactured goods or domestic produce and the dividends paid out of such income;
- b the exempt income of a company which has been granted an investment allowance and the dividends paid out of such income; and
- c the exempt export income of a warehousing company or a servicing company and the dividends paid out of such income.

The Protocol also provides that royalties arising in Singapore may be subjected to Singapore tax at a rate not exceeding 10 per cent of the gross amount of the royalties. However, whether Singapore taxes the royalties or not, the Protocol provides that the Japanese recipient will be given a tax credit of 15 per cent of the gross royalties by Japan.

The provisions of the Protocol are aimed at ensuring that the benefits of our tax incentives are retained by the Japanese investors and in this way encourage the flow of more investment into Singapore.

- (b) *TAXATION: Press Statement, 20 April 1981, on an Avoidance of Double Taxation Agreement between Singapore and India (Singapore Government Press Release 08-0/81/04/20, Ministry of Finance)*

In February 1979, a Singapore delegation visited the Republic of India to negotiate an Avoidance of Double Taxation Agreement between the two countries. The negotiations, which constituted the fifth round of a series, were successfully concluded and a draft Agreement was initialled.

The Agreement was formally signed today at the Inland Revenue Department's Conference Room, 5th Floor, Fullerton Building. Mr. Hsu Tse-Kwang, Commissioner of Inland Revenue signed on behalf

of Singapore and His Excellency, Shri B M Oza, High Commissioner of the Republic of India, signed on behalf of his country.

Details of the Agreement will be released after ratification.

Singapore has Avoidance of Double Taxation Agreements with Australia, Belgium, Canada, Denmark, France, Germany, Israel, Italy, Japan, Korea, Malaysia, the Netherlands, New Zealand, Norway, the Philippines, Sri Lanka, Sweden, Switzerland, Thailand and the United Kingdom.

- (c) *AIR SERVICES: Press Statement, 2 February 1981, on an Air Services Agreement Between Singapore and Malta (Singapore Government Press Release 03-8/81/02/02, Ministry of Communications)*

Delegations representing the government of the Republic of Singapore and the government of the Republic of Malta met in Malta from 27 to 29 January 1981 to negotiate an air services agreement.

At the conclusion of the three-day negotiations, a bilateral air services agreement was initialled. With this agreement, the government has obtained for SIA full traffic rights to fly to Malta via any cities and onwards to cities in Europe. SIA would now have the flexibility to route its European services via Malta or use Malta as a turn-around point for services to Africa or the Middle East. It may operate any number of services a week choosing the most lucrative route and the appropriate aircraft to meet market demand on the route. In exchange, Air Malta, the national airline of Malta may fly to Singapore via any cities and onwards to cities in Australia.

- (d) *TRADE: Press Statement, 13 April 1981, on the Signing of a Trade Agreement Between Singapore and Kuwait (Singapore Government Press Release 17-0/81/04/13, Ministry of Trade and Industry)*

The Minister for Trade and Industry, Mr. Goh Chok Tong, today signed a Trade Agreement between Kuwait and Singapore with HE Mr. Jassim Al-Marzouk, Minister of Commerce and Industry of Kuwait.

The purpose of the Agreement is to promote trade and other economic relations between the two countries. It provides for both countries to do their utmost to encourage trade investment and facilitate shipping.

- (e) *SHIPPING: Joint Communique of 26 May 1981 by the Republic of Korea and the Republic of Singapore, stating that an Agreement on Maritime Transport had been signed by representatives of the two governments (Singapore Government Press Release 17-7/81/05/26, Department of Trade)*

The Second Republic of Korea - Republic of Singapore Ministerial Meeting was held in Seoul, May 24-27, 1981 to review trade and economic relations between the two countries and to explore future opportunities for the expansion of trade and closer economic co-

operation to the mutual benefit of the two countries. The Singapore Delegation was headed by H. E. Goh Chok Tong, Minister for Trade and Industry and Minister for Health and the Korean Delegation by H. E. Suh, Suk-Joon, Minister of Commerce and Industry. Senior officials of the Foreign Ministers of the two countries had a separate meeting to exchange views on matters of mutual interest.

During his stay in Seoul, Minister Goh... met with H. E. Lho Shinyong, Minister of Foreign Affairs and they signed the Agreement on Maritime Transport between the Government of the Republic of Korea and the Government of the Republic of Singapore.

The two Ministers expressed their satisfaction at the signing of the Shipping Agreement between the two countries, and they agreed that they would review the necessity of other bilateral agreements which would contribute to the promotion of economic relations between the two countries.

- (f) *DIPLOMATIC RELATIONS: Press Statement, 23 June 1981 on the establishment of Diplomatic Relations with the Holy See (Singapore Government Press Release 09-0/81/06/23, Ministry of Foreign Affairs)*

The Republic of Singapore and the Holy See, in the desire to promote and develop mutual friendly relations, have decided by common agreement to establish diplomatic links between them, at the level of Embassy on the part of the Republic of Singapore and of Apostolic Nunciature on the part of the Holy See.

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

- (a) *ON INTERNATIONAL LABOUR CONVENTIONS: Speech by Mr. Ong Teng Cheong, Minister for Labour at the 67th Session of the International Labour Conference in Geneva on 5 June 1981 (Singapore Government Press Release 12-1/81/06/05)*

Mr. President, the top priority in the developing countries is economic development. This priority should also be shared by the ILO. It is only through the attainment of economic growth and the solutions of the problems of unemployment, underemployment and mass poverty that developing countries can hope to improve the welfare of their people. The ILO should concentrate on programmes to assist developing countries solve their massive social and economic development problems.

International Labour Conventions and Recommendations are based on labour standards achieved in industrialised countries. These standards have been adopted only in the recent past by industrialised countries after they have achieved modernity and industrialisation. Developing countries do subscribe to the ideals in these Conventions and Recommendations. However many of them are way behind industrialised countries in terms of social and economic development. The urgent problems of unemployment, poverty and malnutrition dictate that they place higher priority on satisfying these basic needs of their people. To disregard the priorities of economic development for the

sake of observing ILO conventions would be foolish. The attainment of these standards can only be done in stages as they achieve social and economic development. The ILO must therefore give due regard to the ability of the member country to observe its Conventions and Recommendations. Constant criticisms and relentless pressure on developing countries for failing to comply fully with international labour standards would only prompt them to refuse to ratify Conventions or even to denounce those already ratified.

I would like now to comment on some of the items on the agenda of the Conference. Mr. President, Singapore supports the principle of free collective bargaining. However, it must be recognised that there are certain constraints on full free collective bargaining. For example, it would not be in the national interest of countries to extend the right to organise and right of collective bargaining to members of the armed and police forces. In addition in essential services such as the supply of utilities while workers in such organisations may be allowed to be organised, they should not be allowed to take industrial action but to refer the unresolved dispute for compulsory arbitration.

Developing countries in their pursuit of social and economic development may find it necessary to depart partially from free collective bargaining. Where such restrictions on free collective bargaining are supported by workers' and employers' representatives and where such constraints do in fact result in the near future in the improvement of the welfare of workers, then the ILO should not criticise developing countries which deviate technically from the principle of free collective bargaining.

The proposed instrument relating to Termination of Employment at the Initiative of the Employer has attempted a detailed list of invalid reasons for termination and has spelt out the procedures for such terminations. It is not advisable to list the invalid reasons for termination. This causes inflexibility. The main concern should therefore be to ensure against the dismissal without just cause of a worker by his employer. Adequate safeguards are necessary and must be provided in the law to prevent abuse or victimisation by uncaring employers. Similarly, the laws must allow aggrieved workers to seek redress either individually or through their unions against wrongful dismissals.

We also support the objectives of the proposed conventions and recommendations on equal opportunities and equal treatment for men and women workers with family responsibilities and on safety and health and the working environment. We are glad to note that certain flexibility will be given to member countries to implement them in accordance with their national conditions. For example while developed countries would have no problem granting paternity leave to male workers under the proposed Recommendation on workers with family responsibilities, this would not be the case for the developing countries where it may not be necessary or even culturally acceptable.

Mr. President, undue emphasis on standard setting and an over legalistic approach in supervision of the implementation of international labour standards are not helpful in the promotion of international

labour standards. ILO should concentrate on assisting member countries in social and economic development. This will increase the capacity of member countries to implement international labour standards. It will also improve the welfare of workers which after all is the concern behind ILO Conventions and Recommendations.

- (b) *ON SANCTIONS AGAINST SOUTH AFRICA: Speech by Dr. Tay Eng Soon, Minister of State for Education of the Republic of Singapore at the International Conference on Sanctions Against South Africa on 21 May 1981, in Paris (Singapore Government Press Release 06-2/81/05/21)*

We are meeting here once again to consider a subject which has been a priority area of concern to the international community for decades. The apartheid policies of South Africa are morally repugnant and are a prime example of man's inhumanity to man. In practising apartheid, the Government of South Africa is challenging the moral tenet that no man or woman shall be discriminated against on the ground of his or her race or colour. It also repudiates one of the basic concepts in the UN Charter, that is, the belief in the dignity and worth of the human being. Apartheid is the clearest, the ugliest and the most systematic form of racial discrimination practised anywhere in the world today.

Singapore has joined the international community in supporting resolutions condemning the apartheid policies of South Africa at the UN and in other international fora. My Government has also in the spirit of solidarity been making a modest contribution to the UN Trust Fund for South Africa since 1972.

In this regard the Singapore Government has consistently criticised the South African Government for its colonialist and racial policies in Namibia. At the recent Non-Aligned Ministerial Meeting in Algiers on Namibia, a strong consensus emerged, urging South Africa to terminate its illegal occupation of Namibia and end the racial oppression practised in that territory. Regrettably, South Africa has continued to spurn the will of the international community by its failure to adhere to UN resolution. Instead, it has chosen to be intransigent and inflexible, fearing a threat to the status quo; a status quo founded entirely on the notion of racial superiority.

Similarly, despite the international community's condemnation of its apartheid policies, it is most lamentable that the Government of South Africa has been impervious to reason, to logic and to moral exhortation. South Africa has chosen to be oblivious to the reactions of the international community, arguing that its apartheid policies are a domestic matter. While this may be so, the international community cannot remain silent when a country practises a very crude and primitive form of discrimination against its citizens, based on the colour of their skins. It is an affront to human dignity and it is a matter which provokes the moral outrage of every concerned human being.

Since South Africa has turned a deaf ear to the pleas for justice and racial equality, the international community must exert pressure in all and various forms against South Africa, as it must, against all

those who violate the basic principles and moral precepts of the UN Charter. We are convinced that sustained international pressure can compel a determined and intransigent regime to give in. The international community must therefore act concertedly and quickly in exerting pressure on South Africa; otherwise we may be still meeting here 10 years hence, pondering over ways and means to persuade South Africa to abandon its inhumane policies.