

SINGAPORE: REVIEW OF MAJOR POLICY STATEMENTS

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The spheres of interstate activity have gone beyond more traditional confines such as diplomacy and state security. Especially in the post-Cold War world, issues such as human rights, the protection of the environment and the promotion of sustainable development have come into prominence. Foreign economic policy and international trade have risen higher on the agenda. Even in the area of security, since 9-11, a new agenda spans poles of thinking about external relations and domestic security, and different conceptions of national and human security. Sovereignty has not vanished, and the state has not disappeared, as some thought would happen. However, there has been a reordering and redistribution of many sovereign functions and prerogatives.

Singapore, as a sovereign but small and interdependent member in the community of states, has responded to this changing international agenda. International affairs have never been more important to Singaporeans. Whether it is economic ups and downs since 1997, or the heightened awareness and threat of terrorism, post 9/11, or the haze from Indonesian fires that were worse in 1997 and still darken our blue skies: each of these “external” events come into Singapore and impact us all, and often very deeply. In these and other arenas, the phenomenon of globalisation promises that more and more such “international” issues will impact Singapore.

The Singapore government has become increasingly active in the international community in the 1990s and into the new millennium. This increased level of international engagement contrasts with the country’s low-key practices in the international community in the initial decade after independence in 1965, and its almost singular focus in the 1980s, on Cambodia-centred advocacy. Much of this is built on Singapore’s economic development in moving, “from third world to first”.¹

However, the country’s presence in the international community has moved beyond this economic paradigm, into other areas such as politics and security. Some believe Singapore can and is now beginning play a more active and activist role in the international community.² Others have suggested that the state is capable of transcending, in part, its regional location and physical limits.³

Yet while Singapore has been more active in the international arena, practitioners, spokesmen and many observers have re-emphasised the limits of Singapore’s international involvements and ambitions. A sense of realism has been counselled, and continuity with former policies has been emphasised. One noted observer, the late Professor Michael Leifer,

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¹ Singapore’s first prime minister and current senior minister, Mr Lee Kuan Yew, has given his narrative of this development, in the 2nd volume of his memoirs, with this title.

² Jean Louis Margolin, “Singapore: New Regional Influence, New World Outlook” *Contemporary Southeast Asia* Vol. 20, No. 3 (December 1998).

³ Tommy Koh, “Size is not Destiny” in *Singapore: Re-engineering Success* (Singapore: Institute of Policy Studies-Oxford University Press) at 172-187.

has suggested that Singapore at the turn of the century faces a number of continuing concerns in the region that shape and limit its foreign policy and, in this regard, has “returned to the future”.⁴

The present conduct of Singapore’s foreign policy may be fairly described as pragmatic, and based on “realism”, to do whatever works to further the country’s national interest in both the short and long term.⁵ It eschews normative aspirations that countries like the USA attempt to recognise in their foreign policy.⁶ Singapore does not generally aspire to the role that other small states, like Norway and some other countries, seek to play in brokering peace, pushing for high international environmental standards or generously supporting official development assistance to developing countries.

In this sense, while Singapore gives attention to the United Nations (UN) and the Association of Southeast Asian Nations (ASEAN), and says it adheres to international law, this is undercut by this guiding realist paradigm. From this perspective, the norms and principles of international law may be of interest but not too much faith is placed on their ability to defend Singapore’s national interests. Realist politics, close alliances with major powers and a strong military and economic muscle are instead emphasised. This may well be warranted. It behoves Singapore to have recourse to an array of different tools to deal with international affairs. However, international law should be part of that toolbox.

International legal system designates a special place to the practice of states. What states do, or do not do, are not merely questions of political necessity. Beyond the formal accession to treaties, they stand to create or evidence the state’s acceptance of customary international law. Practice can also reveal the state’s underlying views of the nature, role and requirements of international law, even when a state may make no explicit reference to international law or principles.

It is against this background that this section offers brief summaries and initial analysis of the practice of the Singapore government on issues that have implications for its positions and policies regarding international law.

From the past year, the following issues have been selected:

1. **Disputes with Malaysia:** Singapore’s relations with Malaysia and, in particular, the use of international adjudication to settle disputes between the two neighbouring states;
2. **Singapore’s ties with China and Taiwan,** following the protests raised by China concerning a visit by then Deputy Prime Minister Lee Hsien Loong to Taipei;
3. **Iraq and International Terrorism:** Singapore’s positions on the US-led war against international terrorism and contributions to the situation in Iraq.
4. **Security in the Straits of Malacca:** Singapore’s positions on the need to increase efforts to secure the sea-lanes of the Straits of Malacca against piracy and potential terrorism.
5. **Rights to Equality:** Singapore’s changes in domestic law and government policies in light of its obligations under *the Convention to Eliminate All Forms of Discrimination Against Women* (CEDAW), a human rights treaty to which the state has acceded.

⁴ Michael Leifer, *Singapore’s Foreign Policy: Coping with Vulnerability* (New York: Routledge, 2000) at 84.

⁵ It is instructive that Professor Tommy Koh, a distinguished and long serving ambassador for Singapore, has entitled one of his essays, “Can any Country Afford a Moral Foreign Policy?” This can be found in Tommy Koh, *The Quest for World Order: Perspectives of a Pragmatic Idealist* (Singapore: Institute of Policy Studies-Times Academic Press, 1998). The ambassador argues that a small state can and must stand on principle, on certain issues, such as the US invasion of Grenada. The flip side of this question, however, is that in many other instances, the small state like Singapore cannot afford such an approach.

⁶ Realist and idealist approaches are both found in US foreign policy, together with other strands of “values” that are projected. See Walter Russell Meade, *Special Providence* (New York: Alfred A. Knopf, 2001).

6. **Death Penalty:** The Singapore government's responses to reports by the US-based non governmental organization, Amnesty International, concerning the state's continued use of the death penalty.

I. DISPUTES WITH MALAYSIA

Few relationships are as important to Singapore than those with Malaysia, and none have been as problematic in recent years. Although increasingly integrated by trade and economic activity, the two neighbouring states have outstanding differences on a range of issues. Efforts were made to reach a political bargain on a package of issues but have, after some six years, given way to the use of legal processes and adjudication in respect of three issues.

These are: 1) Reclamation works by Singapore in the straits of Johor; 2) The sovereignty and control over the islet of Pedra Branca/Pulau Batu Puteh; and 3) The price of water supplied by Malaysia to Singapore.

A. Reclamation Works

Reclamation works by Singapore in the Straits of Johor. In September 2003, Malaysia and Singapore appeared before the International Tribunal on the Law of the Sea (ITLOS) for a request by Malaysia for interim measures. The provisional measures requested by Malaysia were that Singapore should, pending the decision of the Arbitral Tribunal:

1. Suspend all current land reclamation activities in the vicinity of the maritime boundary between the two States or of areas claimed as territorial waters by Malaysia (and specifically around Pulau Tekong and Tuas);
2. To the extent it has not already done so, provide Malaysia with full information as to the current and projected works, including in particular their proposed extent, their method of construction, the origin and kind of materials used, and designs for coastal protection and remediation (if any);
3. Afford Malaysia a full opportunity to comment upon the works and their potential impacts having regard, inter alia, to the information provided; and
4. Agree to negotiate with Malaysia concerning any remaining unresolved issues.⁷

ITLOS has not granted Malaysia's application to order Singapore to stop its reclamation works, either at Tuas or Pulau Tekong. ITLOS also found no basis whatsoever for Malaysia's request for provisional measures based on their territorial claim to "Point 20" at Tuas.

However, the ITLOS ruling required both parties to establish a group of independent experts to conduct a study to determine the effects of the land reclamation by Singapore on Malaysia. Looking ahead beyond the interim measures, an international tribunal to be established under Annex VII of the *United Nations Convention on the Law of the Sea*⁸ will consider the merits of Malaysia's complaint that the works by Singapore cause environmental damage.

⁷ *Case Concerning Land Reclamation by Singapore In and Around the Straits of Johor (Malaysia v. Singapore)* (2003) Case No. 12 (International Tribunal for the Law of the Sea) at 21 and 22, online: ITLOS <http://www.itlos.org/start2_en.html>.

⁸ *United Nations Convention on the Law of the Sea*, 10 December 1982, 1833 U.N.T.S. 3.

The Singapore Minister for Foreign Affairs and Law, Professor S. Jayakumar, summarised the response of Singapore to the ITLOS ruling in a speech in Parliament (16 October 2003)⁹:

[W]e have welcomed ITLOS' decision. Indeed this has been the very approach Singapore had stressed and we had taken in our negotiations with Malaysia. The orders given by ITLOS to consult, exchange information and to do a joint study are all assurances that Singapore had freely given to Malaysia. These assurances were given well before the case went to ITLOS

After the talks we had with Malaysia in August 2003, Singapore had conveyed its agreement for the joint study. Before that, we had also informed Malaysia that we were prepared to consult, exchange information and give Malaysia a full opportunity to comment on our reclamation works. We gave these assurances and commitments, despite Malaysia's ultimatum of 4 July 2003. We had wanted to resolve this issue through negotiations. But Malaysia rejected these offers and decided to take us to ITLOS

[T]he Tribunal also dealt with developments in Area D, that is, Tekong. The Tribunal has asked both countries to consult with a view to reaching agreement on temporary measures, if any, to ensure that the infilling operations do not prejudice the commitments made by Singapore pending the completion of the joint study. This commitment is that "no irreversible action would be taken by Singapore to construct the stone revetment around Area D pending the completion of the joint study, which should be completed within a year

ITLOS has allowed Singapore to continue with its reclamation works and we intend to do so, Sir, with care and due diligence, in accordance with our assurances and commitments to ITLOS

Singapore will abide by ITLOS' decision. We welcome the statements by Malaysia's leaders that Malaysia would also abide by the Tribunal's decision. We look forward to working with Malaysia to implement ITLOS' decision and the orders in good faith. Both sides must now work together to sort out the details and ensure that the group of independent experts is quickly appointed so that it can get down to its job of conducting a joint study

[T]he next phase really has two parts. One is the setting up of the group of independent experts for conducting the study. At the same time, the next phase also involves the work of the arbitral tribunal which has been constituted to hear the merits of the case. So there is much work to be done by both sides. I believe and hope that both sides will sit down and get on with it in good faith

The two states have also reached common understanding on matters concerning the Annex VII Arbitration such as the venue, the facilities and the rules of procedure to be utilised at the Annex VII Arbitration. Malaysia and Singapore agreed that the tribunal's meetings would alternate between Malaysia and Singapore and will look at the possibility of utilising the facilities and resources of the Kuala Lumpur Regional Arbitration Centre and the Singapore International Arbitration Centre for the hearing.

B. *Pedra Branca/Pulau Batu Puteh*

Singapore and Malaysia are in dispute over the sovereignty and control over an islet near the Straits of Johor, known as Pedra Branca by Singapore or, by Malaysia, as Pulau Batu Puteh.

⁹ Sing. *Parliamentary Debates*, vol. 67, col. 3112 (16 October 2003) (Professor S. Jayakumar).

The dispute arose in 1979, when Malaysia for the first time published a new map that claimed the island. Prior to that, Singapore had occupied and exercised full sovereignty over the island for more than 150 years since the 1840s without any protest from Malaysia. Previous Malaysian maps, even as late as 1974, showed Pedra Branca as belonging to Singapore.

Following the recent International Court of Justice's decision in favour of Malaysia over Indonesia regarding the disputed islands of Sipadan and Ligitan, Malaysia began to accuse Singapore of delay over the Pedra Branca issue. Malaysia also falsely accused Singapore of building new structures on Pedra Branca even though no new structures have been built there for the last 10 years. The two countries have agreed to refer the matter to the International Court of Justice.

After the signing of the Special Agreement on 6 February 2003, the next step was for the two Governments to ratify the Special Agreement and exchange the Instruments of Ratification. Only after this is done can both Governments jointly refer the dispute to the International Court of Justice. On 17 February, Singapore informed Malaysia that the Singapore Government had ratified the Special Agreement. They proposed that both Governments exchange the Instruments of Ratification on 24 February 2003 when both Foreign Ministers would be in Kuala Lumpur for the Non-Aligned Meeting. The Malaysian Government replied on 19 February stating that because of heavy commitments that month arising from their hosting of the NAM Summit in KL, it was unable to do so on that date. However, the Malaysian government agreed to propose a new date for the exchange of Instruments of Ratification in due course.¹⁰

On 6 February 2004, Minister Jayakumar and his Malaysian counterpart, Mr. Syed Hamid Albar, signed in Putrajaya, Malaysia, the Special Agreement for Submission to the International Court of Justice of the Dispute Between Malaysia and Singapore Concerning Sovereignty over Pedra Branca, Middle Rocks and South Ledge.

C. Water

Malaysia supplies water to Singapore under the two existing water agreements between the countries, making up some 50% of the island republic's supply. While supply under the existing agreements will continue, questions over the price for water is likely to be referred to arbitration. This follows Malaysian claims for a right of review of price under the agreement.

At present, the supply is guaranteed at 3 Malaysian sen per 1,000 gallons. In discussions on the possible extension of supply of water, possible price raises to 45 sen or even 60 sen per 1,000 gallons have been discussed.

The Singapore government has however argued that the issue goes beyond the question of price. This was especially after Malaysia released statements on its point of view, which the Singapore government considered "misinformation" and rebutted extensively.¹¹

In a statement in Parliament, Foreign Minister Prof. Jayakumar noted a number of strident allegations by Malaysia concerning Singapore's behaviour on the water issue, including claims that Singapore was "selfish", "profiteering", "legalistic" and "unreasonable". The Minister considered that the water issue was critical to Singapore's survival as a nation, and therefore released the exchanges of correspondences between the leaders of the two countries, as well as formal diplomatic exchanges concerning this issue.¹²

He felt that he had to take this step because "so much misinformation on the water issue has been put out by Malaysia that it now needs to be countered by conclusive evidence.

¹⁰ See online: MFA website <http://app.mfa.gov.sg/sections/press/report_press.asp?1876>.

¹¹ See generally, Republic of Singapore Ministry of Foreign Affairs, Press Release, "Water Issue is about Sanctity of Agreements, not about Price Alone, Says Singapore Foreign Minister Prof. S. Jayakumar" (25 January 2003). Online: MFA website <<http://www.mfa.gov.sg/press/summary.html>>.

¹² Sing. *Parliamentary Debates*, vol. 75, col. 2358 (25 January 2003).

These documents will clear the air for everyone.” The documents, in two volumes, were made part of the official records of Parliament and included the texts of various agreements.

On the price of water, Minister Jayakumar stressed that the fundamental issue is how Singapore might be made to pay for any revision. The Singapore government takes the position that any revision cannot be done at the will or dictate of Malaysia. Said Prof. Jayakumar: “The 1961 and 1962 Water Agreements are enshrined in the Separation Agreement (between Singapore and Malaysia in 1965) and registered at the United Nations. They are fundamental to our very existence as an independent nation. Neither Singapore nor Malaysia can unilaterally change them. This is the root of the dispute between us.”¹³

In seeking to resolve the dispute, two possible avenues for resolution have been raised. One is the possibility of international arbitration by the Permanent Court of Arbitration (PCA). This possibility was raised by several Malaysian leaders. However, Malaysian Foreign Minister Syed Hamid subsequently was reportedly to say that this option was unnecessary.

In response, Singapore indicated that it was prepared to have recourse to arbitration in accordance with the provisions of the Water Agreements. The provisions in Clauses 21 and 19 of the 1961 and 1962 Water Agreements respectively provide for the settlement of disputes arising under the Agreements. Those provisions stipulate that where disputes cannot be resolved, the matter shall be referred to arbitration “in accordance with and subject to the provisions of the arbitration law at the time of such dispute existing in the State of Johor”.

In 2002, the Johor State Secretary sent letters seeking to give Notice of price review in accordance with Clause 17 and Clause 14 of the 1961 and 1962 Water Agreements respectively to the PUB. As Singapore’s position was that Malaysia had lost its right of review, the PUB replied on 9 October 2002 that it did not accept that the Johor State Government was still entitled to serve notice to seek a review of the charge of raw water under the two water Agreements.¹⁴

Singapore has nevertheless taken the position that the question of whether a right of review is still available, as well as the quantum of the price revision, can be resolved through legal process as provided for in the two Water Agreements. Minister Jayakumar explained in Jan 2003:

This is like the way we are resolving Malaysia’s claim over Pedra Branca. Both sides will be bound by the decision of the arbitrators. If in fact Johor has not lost its right to revision by not exercising it in 1986/87, then the arbitrators’ award on the price revision will take effect from the date when Johor gave its Notice to PUB as provided for in the two Agreements.¹⁵

While the disputes between Singapore and Malaysia are long standing and complex, the political transition in Malaysia from Mahathir Mohamed to Abdullah Badawi as prime minister appears to have made some initial difference. Throughout 2004, signs of improving relations between the two countries were evident. Exchanges and visits by political leaders on both sides increased. Trade and investment across the borders also increased, most notably with significant investments by the Singapore government’s Temasek Holding Company into Malaysia.

In his visit to Singapore, the Malaysian Prime Minister Badawi made a suggestion that negotiations be preferred to legalistic procedures, hoping that “low hanging fruit” could be harvested initially to lessen tensions and increase cooperation between the two countries. In responding, the Singapore government stated that legal procedures that had already started would continue on course, without undue delays. However, it indicated its willingness

¹³ *Ibid.* at col. 2361.

¹⁴ *Supra* at note 11.

¹⁵ *Supra* note 12 at col. 2378.

to discuss and negotiate issues that have not as yet been submitted to legal process. An indication that Singapore would continue with legal processes was also notable during the change of cabinet when Singapore made its political transition from Goh Chok Tong to Lee Hsien Loong as Prime Minister.

While Professor S. Jayakumar gave up his portfolio as Foreign Affairs minister, he was appointed Deputy Prime Minister, retained his portfolio at the Ministry of Law and will continue to supervise Singapore's cases in international courts and arbitration.

II. SOVEREIGNTY: TIES WITH CHINA AND TAIWAN

On 10 July 2004, then-Deputy Prime Minister (D.P.M.) Lee Hsien Loong paid a "private and unofficial" visit to Taiwan. This met with objections from China, which took the view that such a visit was inconsistent with a "One China" policy.

According to Singapore's Ministry of Foreign Affairs (MFA), D.P.M. Lee made the visit to meet up with friends whom he last visited in 1992.¹⁶ D.P.M. Lee also pointed out that before becoming Prime Minister, he wanted to update himself on the current situation in Taiwan in order to assess for himself how circumstances might evolve and the implications for regional stability.¹⁷

As is the usual practice, Singapore informed the Chinese government of the visit as a courtesy before D.P.M. Lee's departure. This diplomatic custom has allowed Singapore to continue its tradition of private visits to Taiwan that began long before Singapore's normalisation of ties with China, which only occurred in 1990. Moreover, in 1992, Chinese leaders and then-Senior Minister Lee Kuan Yew had agreed that Singapore will continue such unofficial exchanges with Taiwan and that these exchanges would not affect Sino-Singapore relations.

Notwithstanding this, the D.P.M's visit was received differently. Upon being informed, China requested that the trip be cancelled. After giving the Chinese representations "serious consideration", Singapore decided to proceed with the trip but strongly reiterated that the visit was "private and unofficial" and did not change Singapore's "very clear" position on Taiwan, which is, that Singapore consistently maintains a "One China" policy and does not support independence for Taiwan.¹⁸

However, despite this reassurance, the Chinese regarded this statement as insufficient. According to Chinese Foreign Ministry spokeswoman Zhang Qiyue, were baffled by this "outrageous action that hurt the core interests of China including its sovereignty and territorial integrity".¹⁹ In response, the governor of the People's Bank of China cancelled his visit to Singapore while Chinese officials in Singapore chose not to attend a dinner function hosted by D.P.M. Lee as head of the Monetary Authority of Singapore. The Chinese Ambassador to Singapore also suggested that talks on the China-Singapore Free Trade Agreement (F.T.A.), scheduled for November 2004, will "inevitably be affected".²⁰

Two observations may be initially offered. First, some may suggest that the Chinese government was using this episode as an opportunity to reiterate and indeed strengthen its "One China" policy to delineate the boundaries of what China considers "acceptable" behaviour. It is notable, in this regard, that Malaysia's immediate response was to ban all

¹⁶ "MFA Spokesman's Comments on D.P.M. Lee's visit to Taiwan", online: MFA website <http://app.mfa.gov.sg/sections/press/report_press.asp?3935>.

¹⁷ "Q&A with D.P.M. Lee on his visit to Taiwan", online: MFA website <http://app.mfa.gov.sg/sections/press/report_press.asp?3943>.

¹⁸ "MFA Spokesman's Comments on D.P.M. Lee's visit to Taiwan", online: MFA website <http://app.mfa.gov.sg/sections/press/report_press.asp?3935>.

¹⁹ "China: Singapore Could Ruin Bilateral Ties", Xinhua News, online: Xinhua News Agency <http://news.xinhuanet.com/english/2004-07/13/content_1597307.htm>.

²⁰ "Let those who tied knot untie it, says Chinese ambassador", *The Straits Times* (22 July 2004).

ministers at the cabinet level from making official or unofficial visits to Taiwan.²¹ This move earned China's praise and arguably demonstrates that China has succeeded in this respect.

Secondly, while the visit did not mark any change in Singapore's long-standing practice of unofficial visits to Taiwan, it may signal a change in context. Increased pro-independence sentiments in Taiwan, particularly during the period leading up to the presidential elections in early 2004, and the Chen administration's explicit pro-independence stance have heightened tensions across the Straits. As a result, there is greater sensitivity on China's part to any event that might be construed as support for Taiwan's independence. Hence, some analysts suggest that the unusually tense cross-straits relations made China more sensitive and less amenable to any action that could be construed as being pro-Taiwan.

Why then did Singapore decide to go ahead with the visit against China's wishes? According to D.P.M. Lee, "to call off the trip at China's request would have undermined our right to make independent decisions, and damaged our international standing. As a small country, this is a vital consideration in our dealings with all countries."²²

In his National Day Rally speech in August 2004, now as Prime Minister (P.M.), Lee dealt with the issue at length. His explanation dealt not only with Singapore's relations with both China and Taiwan, but also with Singapore's position as a small sovereign state²³:

We have broad relations with China for many years since the visit of Deng Xiaoping to Singapore he was then the vice-premier, which was in 1978. And we want to deepen these relations for the future. But nevertheless, tonight, let me explain why I needed to visit Taiwan. Economically, China and Taiwan are getting closer together. They say half a million Taiwanese work in China. But politically, the two are drifting apart. China has made it very clear that if Taiwan moves towards independence, China is not going to stand idly by and war may be inevitable

In this current, very tense situation, I will have to make some very difficult judgment calls as P.M. I wanted to understand the thinking of my friends and contacts in Taiwan. Some of them are now key leaders on both sides, on the Pan-Green side and on the Pan-Blue side. I needed to sense the shifts in the tone and texture of Taiwanese society. Only then can I make an objective assessment with conviction and knowledge

If other countries are going to take Singapore's views and assessments of the cross-straits situation seriously, then they've got to view us as informed, impartial and balanced. If Singapore can help in some way to prevent miscalculations by some key players, then we are going to do our utmost to do so. We are small, we are not influencing the events but we can provide some inputs to help the key players avoid mistakes and misjudgments

The Chinese have protested that my visit to Taiwan was contrary to Singapore's One China policy. But Singapore has always observed the One China policy. We took this position right from our independence in 1965. In 1971, we voted for PRC's admission into the UN to take its UN seat. In October 1990, we established diplomatic relations with China. By then China understood Singapore's position on Taiwan, that historically we have unique and important interests there which continue to be vital to our security today

Two years after we established diplomatic relations with China, I visited Taiwan in 1992. I was then already D.P.M. So my recent visit to Taiwan is not my first one

²¹ Tony Sitathan, "Beijing's Warning Shout" *Asia Times*. Online: Asia Times Online <<http://www.atimes.com>>.

²² "Q&A with D.P.M. Lee on his visit to Taiwan", online: MFA website <http://app.mfa.gov.sg/sections/press/report_press.asp?3943>.

²³ Prime Minister Lee Hsien Loong, "Our Future of Opportunity and Promise" (National Day Rally 2004, University Cultural Centre, National University of Singapore, 22 August 2004). Online: Prime Minister's Office website <<http://app.sprinter.gov.sg/data/pr/2004083101.htm>>.

under these circumstances, it's my second one, and it doesn't contradict our One China policy. Nor can it be seen as emboldening Taiwan independence elements. This makes no sense because the Taiwanese know too well that we stand for One China and are opposed to Taiwan independence. Indeed, we are very worried by the growth of Taiwan independence forces

Singapore's One China Policy will not change. A move by Taiwan towards independence is neither in Singapore's interests nor in the region's interest. If Taiwan goes for independence, Singapore will not recognise it. In fact, no Asian country is going to recognise it. Nor will European countries. China will fight. Win or lose, Taiwan will be devastated

Unfortunately I met only very few Taiwanese leaders who recognised this reality. The problem is that it's not going to be just Taiwan which is going to be damaged. It will be a grave setback for the whole region. Our hope for China to emerge peacefully, and for the region to prosper through investments and trade and tourism, will be shattered. In any case, I think it would be the height of absurdity for Singapore to want to quarrel with China over the question of Taiwan because the cross-straits issue is not a permanent problem. It will be resolved sooner or later either sooner if matters come to a head when Taiwan amends its Constitution, or later eventually if the situation evolves peacefully over two or three decades, China continues to grow, and Taiwan's economy is progressively integrated into China's economy. The process is inexorable; there can be no other final outcome

If war breaks out across the straits, we will be forced to choose between the two sides. As a friend of both sides, any decision is going to be painful. But if the conflict is provoked by Taiwan, then Singapore cannot support Taiwan. I will not change our One China policy. But I had no choice but to make this visit to Taiwan in order to be confident that I can take the right decision for Singapore in a looming crisis

We value our relations with China. I have met many senior Chinese leaders, most recently in May, and I deeply appreciated their goodwill and friendship, and their warm welcome and their readiness to cooperate with Singapore. This cooperation has always been on the basis of equality, mutual respect and mutual benefit—平等互惠互利—that's their slogan and that's ours too. If our cooperation is affected, both sides will lose. I regret that my visit to Taiwan has caused this severe reaction in China, which affected relations. I also regret the way the Taiwanese media chose to play up my private and unofficial visit

This isn't going to be the last time our relations with a major friendly power are strained. We strive for good relations with all countries. But from time to time, issues are going to arise and big powers have their own interests and will exercise their influence to get their way. We may be old friends, but when our interests diverge or even when our approaches to the same problem differ, they have to put their interests first and their approaches first, and so must we. This is a reality of the compelling pressures of international politics and of national interests, and we must remember this

III. IRAQ AND INTERNATIONAL TERRORISM

Singapore has supported the US-led intervention in Iraq as one of the "coalition of the willing". As difficulties in establishing order and peace in Iraq have arisen, and without proof of Iraqi plans for weapons of mass destruction, there has been increasing controversy over Singapore's support for the USA. In this past year, the Singapore government has restated its

grounds for supporting the US-led intervention on the basis of the UN resolutions requiring Iraqi compliance with weapons inspections. It has also made modest but real contributions to peace building efforts and humanitarian assistance in that country.

Notably too, Singapore government leaders and especially Prime Minister Goh Chok Tong made a series of speeches, including to audiences in the USA itself, that brought a new emphasis to the broader issues of peace in the Middle East. The Singapore leader called for a “more balanced and nuanced approach towards the Israeli-Palestinian conflict—an approach that recognises that there are equities and inequities on both sides”²⁴. Then PM Goh took the view that such a policy, “must become a central pillar of the global war against terrorism.”

On Singapore’s relations with the USA and the grounds for supporting the US-led intervention, Foreign Minister S. Jayakumar offered an explanation in Parliament as follows²⁵:

I am aware that some Singaporeans are a little uncomfortable with our close relationship with the US. When news broke that we were deploying SAF assets to Iraq, some Singaporeans expressed concern about the dangers. Now that President Bush and Prime Minister Blair are being questioned on the failure to find WMD in Iraq, some Singaporeans may well wonder whether our position on Iraq was wrong

I do not think our position was wrong. We do not think we were too pro-US. In fact, this is the wrong way to try to understand this. Let me reiterate the key point that I made in last year’s committee of supply debate when this issue came up. I said we are not pro-US; we are not anti-any country. What we are is that we are pro-Singapore in the sense that ultimately what guides us in our foreign policy is our national interest. And that remains our fundamental approach, not just on the Iraq issue but on any issue

Much of what I said on Iraq last year remains valid. There was no doubt that Iraq had been in material breach of many United Nations Security Council resolutions for many years. In fact, Iraq was unique in its consistent defiance of the United Nations Security Council Resolutions. With this abysmal record, what reason was there to suspect that Saddam Hussein would not resume his “cat-and-mouse” game that he had played for so many years with UN weapons inspectors once the immediate threat of military action had passed? Was this an acceptable risk?

Since 9/11, it was clear to all that the global security environment had undergone a fundamental structural change. The possibility of terrorists gaining control of WMD was no longer an acceptable risk, not just to the US but to every responsible member of the international community, including Singapore. Once the US had decided that it was no longer prepared to tolerate even the slightest possibility of a threat from Saddam Hussein and was determined to ensure its own security by removing him, the credibility of US resolve then became the key factor in our calculation of national interest

One of the most important international issues we will have to deal with for many years is terrorism. International terrorist networks are deeply embedded in Southeast Asia. It will take many years to root them out. Until they are rooted out, Singapore will be at risk, and the risks, I must add, existed well before we took a position in support of the US over Iraq. We cannot deal with the terrorist threat alone. The

²⁴ Prime Minister Goh Chok Tong, “Post Cold-War Geopolitics” (Keynote Address to the Third International Institute of Strategic Studies Asia Security Conference, Singapore, 4 June 2004) available online: MFA website <http://app.mfa.gov.sg/sections/press/report_press.asp?3836>.

²⁵ Sing. *Parliamentary Debates*, vol. 77.

struggle against terrorism is and will be a global one and only the US has the capability to lead it. This was why we supported the US on Iraq. If after all that was said, and because of the opposition it faced in the Security Council, if the US had not acted, and when it acted, found itself abandoned by all its friends, extremists around the world would have been emboldened.

As part of Singapore's continuing humanitarian and reconstruction assistance to Iraq, the following contributions were made: 1) Singapore planned a small police training team to the International Police Training Center located in Jordan to help train the Iraqi police. The Jordan International Police Training Center is run by the Coalition Provisional Authority and staffed by international coalition police trainers from several countries. 2) As part of Singapore's continuing contribution to the coalition efforts to bring stability to Iraq and Afghanistan, Singapore deployed an RSAF KC-135 tanker aircraft to the Gulf region for a period of three months. This followed Singapore's earlier deployments of two months each of a Landing Ship Tank (LST) and a C-130 transport aircraft. 3) Singapore supported the UN humanitarian relief effort along with the work carried out by the International Committee of the Red Cross. On 23 March 2003, the Singapore Red Cross Society launched a national appeal for humanitarian aid to Iraq. The Singapore Government made a contribution of S\$442,000 to kick-start this national humanitarian effort. 4) Singapore Government contributed a medical team of 13 personnel for a three monthly rotation, as well as material contributions such as tents, blankets and cots. The expenses of such additional contributions totaled some S\$3 million.

Minister Jayakumar reiterated that, "[T]he people of Iraq deserve the full support of the UN and international community as they rebuild their lives and their country. Singapore will do what it can in the international effort to help Iraq rebuild and return to normal. This will pave the way for its eventual reintegration into the global community."²⁶

Beyond Iraq, Singapore in 2004 also broadened its public analysis on the international war against terrorism. In a series of speeches, Prime Minister Goh Chok Tong provided a broader commentary on the underlying issues, including the Middle East.

In a speech to the Council of Foreign Relations in the USA, P.M. Goh explained his concerns:²⁷

The terrorist attacks in Madrid in March this year could become a turning point in the war against terrorism. Unless we make the right moves, I fear the turn could be for the worst. The choice of the target and the timing of the attack were strategic. The Spanish Socialist Party had made the withdrawal of troops from Iraq part of its election platform. Attacking Madrid just before the election was obviously calculated to achieve a strategic effect; as indeed it did when the new government so quickly confirmed its intention to pull out of the US-led coalition in Iraq. This will only encourage the terrorists to exploit political differences within countries and divisions between the US and Europe. We must not let them succeed

Islamic militancy is not new to Southeast Asia. But what is new is this type of fanatical global ideology (including the phenomenon of suicide bombers) that has been able to unite different groups and lead Southeast Asian groups to subordinate local interests to the broader struggle

Just as the Cold War was an ideological as well as a geopolitical struggle, the war against terrorism must be fought with ideas as well as with armies; with religious and

²⁶ *Ibid.*

²⁷ Prime Minister Goh Chok Tong, "Post Cold-War Geopolitics" (Keynote Address to the Third International Institute of Strategic Studies Asia Security Conference, Singapore, 4 June 2004) available online: MFA website <http://app.mfa.gov.sg/sections/press/report_press.asp?3836>.

community leaders as well as police forces and intelligence services. This ideological struggle is already upon us. The terrorist threat has moved beyond any individual or group. It has become a global menace. Unless we win the battle of ideas, there will be no dearth of willing foot soldiers ready to martyr themselves for their cause. This ideological struggle is far more complex than the struggle against communism because it engages not just reason but religious faith. You and I as non-Muslims have no locus standi to engage in this struggle for the soul of Islam. It is a matter for Muslims to settle among themselves

PM Goh gave the keynote address to the Shangri-La dialogue on Asian security in June 2004, and expanded his analysis of the underlying issues. In so doing, he touched upon issues like the US policy in the Middle East and especially the Israeli-Palestinian conflict that many in the USA have been reluctant to consider as being relevant to international terrorism. These statements were made, notwithstanding Singapore's close relations to the US and to the current Bush administration.

The terrorists are driven by an ideological desire to force their strain of Islam on others but their goals and methods are geopolitical. The war against terrorism must therefore be simultaneously fought on both fronts: the ideological as well as the geopolitical. While the US cannot lead the ideological struggle, only it has the capacity to lead the geopolitical fight. In this contradiction lie the complexities

The terrorists want to overthrow secular governments: initially in the Middle East to secure control of oil that will give them the wherewithal to achieve their ultimate goal of a Caliphate of the entire ummah or global Islamic community. It will be a mistake to dismiss them as mere fanatics. The terrorists have strategic thinkers amongst them and their reach is global. Indeed they seem to be able to think more strategically and globally than do some governments

Anti-Americanism is high around the world. A principal cause is the sheer scale of American power and the indispensability of the US to the post-Cold War international system. This leaves other major powers uncertain of their own roles and insecure about their own status. In certain intellectual circles, it is fashionable to be anti-American. But wishing for a more balanced world will not make it so. All the more necessary, therefore, to state what ought to be obvious but is unfashionable: America is not the enemy; the terrorists are the enemy

The central battleground is the Middle East. The difficulties America currently faces in Iraq offer the greatest opportunities for the terrorists. The terrorists know that America cannot be defeated militarily. Their target is psychological: America's resolve and the resolve of America's coalition allies. If they succeed, first in breaking the coalition allies' resolve, and later, America's resolve, extremists everywhere will rejoice and be emboldened. They will know that they can defeat even the world's mightiest nation. They will go on the offensive with renewed vigour. This is why it is so vital that, whatever the difficulties, the US and its allies do not waver in Iraq but persevere to bring about a good outcome. Whatever the differences of views over America's actions in Iraq, Europe and the US must set aside pre-war recriminations, go beyond saying "I told you so", and work together with the UN to stabilise Iraq

The abuse of prisoners at Abu Ghraib was a hideous crime. It must be dealt with transparently and decisively. The guilty must be punished. But Abu Ghraib must not be allowed to cloud the central strategic issue that is at stake

The Middle East is also where US friends and allies are most disquieted by America's seemingly unconditional support for Israel. I know this is a delicate issue. I know

that whatever the criticisms of its policies, the US plays an irreplaceable role in stabilising the Middle East. But this is too important an issue to dress in diplomatic niceties. The US is essential to the solution but is also part of the problem. A more balanced and nuanced approach towards the Israeli-Palestinian conflict—an approach that recognises that there are equities and inequities on both sides—must become a central pillar of the global war against terrorism. Given the post-Cold War geopolitical battle against terrorism, the Israeli-Palestinian conflict is no longer just a regional problem. The Islamic terrorists know this. They have exploited this conflict to win sympathy and recruits for their own cause

The Israeli-Palestinian conflict is a rallying cause of terrorism. We know that a solution to it will not end terrorism, given the ideologically-driven motivations of the Al-Qaeda terrorists. But the discomfort that mainstream Muslims around the world feel with America's Middle East policies limits their ability to fight the ideological battle. Even the Europeans and other friends of the US will be constrained to support the US in the fight against the terrorists. This weakens the US-led geopolitical struggle against terrorism

In Asia, as in Europe, unease with America's overwhelming global dominance is high. But Asia is more keenly aware than Europe of the vital role that the US plays in maintaining global stability. No matter what their misgivings, only a few Asian countries, and certainly no major US ally, opposed the US on Iraq. There is a clearer appreciation in Asia than in Europe that the fundamental issue in Iraq now is the credibility and resolve of the US

This is because Asia still faces many serious security challenges. Kashmir, North Korea and cross-strait relations between Beijing and Taipei are potential flashpoints. If things go terribly wrong, the conflicts could even turn nuclear. The US is central to the management of all three potential flashpoints. All three conflicts also have a direct impact on the global struggle against terrorism²⁸

IV. SECURITY IN THE STRAITS OF MALACCA

Singapore's port is one of the busiest in the world and depends largely on the Straits of Malacca for its traffic. The Straits is the main conduit for ships traveling to East Asia, including oil containers that supply such countries as Japan and China. Issues of safety of navigation and piracy in the Straits of Malacca have previously arisen. In the wake of 9/11, additional concerns have been raised over the possible dangers of terrorism in the Straits.

The Singaporean government brought attention to this issue in 2004 and made a suggestion that the littoral states of the Straits—Indonesia, Malaysia and Singapore—should work together to increase the security of the international channel.

Some media reports however inaccurately suggested that Singapore proposed to invite the USA to take part in patrolling the Straits or indeed lead them. The Singapore Minister for Defence, RADM (NS) Teo Chee Hean, clarified his concerns on 26 April 2004 at the opening of the Western Pacific Mine Countermeasure and Diving Exercises.²⁹

The primary responsibility for the safety and security of the Malacca Straits lies with the three littoral states. Indonesia, Malaysia and Singapore have each on their own

²⁸ Prime Minister Goh Chok Tong, "Post Cold-War Geopolitics" (Keynote Address to the Third International Institute of Strategic Studies Asia Security Conference, Singapore, 4 June 2004) available online: MFA website <http://app.mfa.gov.sg/sections/press/report_press.asp?3836>.

²⁹ RADM (N.S.) Teo Chee Hean, "Maritime Security in the Malacca Straits" (Speech at the opening of the Western Pacific Mine Countermeasure and Diving Exercises, 26 April 2004) available online: MINDEF website <<http://www.mindef.gov.sg/display.asp?number=2076>>.

and in concert with one another taken some measures to enhance the security of this waterway. However, what is in place today is not adequate, as it is an intensive and complex task to safeguard regional waters against maritime terrorism

No single state has the resources to deal effectively with this threat. Moreover, the full effects of maritime terrorism extend far beyond the littorals. The littoral states are obviously not the only stakeholders in the Malacca Straits. Other users have a strong economic, if not also strategic, interest in ensuring that the Malacca Straits is kept open and safe

All stakeholders—the interested countries and their military enforcement agencies and port authorities, the shipping community, and multilateral bodies such as the IMO—should be prepared to play a part in the security efforts. This is a relatively new area of cooperation and there are various issues to sort out. But we can make progress if we proceed on the basis of consultation and within the bounds of international law

Following efforts to clarify Singapore's position, plans to increase patrols and cooperation with Malaysia and Indonesia were agreed upon by the three states.

V. RIGHTS TO EQUALITY AND CEDAW

Prior to 1995, Singapore had not signed or ratified any major human rights treaty,³⁰ other than those relating to slavery. This was despite the fact that the Republic's Constitution provides rights that are substantively similar to rights found in international treaties such as the *International Covenant on Civil and Political Rights*.³¹ Indeed, some political leaders and senior diplomats from Singapore had been leading figures in the "Asian values" debate of the early 1990s, which claimed regional differences from universal human rights.

From mid 1995, Singapore acceded to three human rights treaties, including the *Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)*.³² In acceding to CEDAW, however, Singapore set out a number of reservations and declarations.³³

CEDAW requires states to take progressive steps to treat women and men in all spheres of activity. Declarations and reservations were made to except culture and existing policies and laws in the areas of employment rights,³⁴ and citizenship and other associated rights.³⁵ Exceptions to the convention were also reserved as regards religious or personal laws from articles relating to general discrimination and marriage and family relations.³⁶

³⁰ There are a great number of human rights treaties. Of these, scholars and others have usually identified a core of major treaties that are said to constitute an international bill of human rights. These include the 1966 International Covenant on Civil and Political Rights and 1966 International Covenant on Social, Economic and Cultural Rights, which Singapore has not signed.

³¹ For example, the Constitution provides for the prohibition against slavery (Art. 10) and freedom of speech (Art. 14).

³² *Convention on the Elimination of All Forms of Discrimination Against Women*, 18 December 1979, 19 I.L.M. 33. The other human rights treaties that Singapore has ratified are the Genocide Convention and the Convention on the Rights of the Child.

³³ See Simon Tay, "Singapore and International Law" (1997) 1 Sing.J.I.C.L. 404-407, for details.

³⁴ Article 11, paragraph 1 was interpreted in the light of Article 4, paragraph 2, as not precluding prohibitions, restrictions or conditions on the employment of women in certain areas, on work done by them where considered necessary for health and safety. Legislation to effect Article 11 was also considered unnecessary for women not already covered by existing employment legislation.

³⁵ Laws were reserved concerning the right of entry, stay, employment and departure and the right to acquire, confer and lose citizenship by women who have acquired citizenship by marriage, and of children born outside Singapore.

³⁶ Articles 2 and 16 of the Convention.

When asked if laws would be reviewed and changed following the accession to CEDAW, Minister for Foreign Affairs and for Law, Professor S. Jayakumar, explained then that the government had no intention to reform domestic law or its policies affecting women in the light of CEDAW. The Minister was of the view that these laws and policies were already in compliance with Singapore's international obligations, despite its reservations and declarations.³⁷

In 2003-2004, however, a number of changes were made to Singapore's domestic policies that relate to the equality of women. One such change was the removal of quotas to limit the number of women who could study medicine at the National University of Singapore. Another, announced by newly appointed Prime Minister Lee Hsien Loong, was to grant medical benefits to the family and children of female civil servants that were, previously, granted to the family of only male civil servants. The changes of policy were not attributed to CEDAW. Nevertheless, the policy changes have removed a number of practices that have been questioned in reviewing Singapore's record under CEDAW.

Prime Minister Lee explained in his first National Day Rally speech in August 2004:

Our society is changing. The women are working. They are going out. And I think if we're going to talk about shared responsibility, if we are going to shift and try and get couples to split more evenly so their duties of bearing and bringing up children, I think we should move. So after many years, after thinking this over many times and picking up the stone and putting it back again and again, we will now decide to equalise medical benefits for men and women under the new medical schemes. The older schemes which are moribund, we will extend it to their children because I think the older schemes they have civil service complexities but for the new schemes, let's treat it as equal. Philosophically I accept.³⁸

VI. THE DEATH PENALTY

In the period under review, Singaporean law and practices concerning the death penalty also came under scrutiny. This followed a report by the international non-governmental organisation, Amnesty International, entitled "Singapore—The Death Penalty: A Hidden Toll Of Executions". The criticism against Singapore was voiced notwithstanding the fact that the state is not a party to any international convention that prohibits the death penalty.

The Singapore government issued an extensive rebuttal to the Amnesty report. The rebuttal related, first, to the issue of whether the death penalty is prohibited by international law; and, secondly, to more specific allegations concerning the practices in Singapore in implementing the death penalty. Excerpts of the Singapore government response of 30 January 2004 follow³⁹:

There is no international consensus on abolition of the death penalty. Key international instruments that apply to countries with wide divergences in cultures and values do not proscribe the use of the death penalty in their texts. For example, even the International Covenant on Civil and Political Rights provides that the death sentence "may be imposed only for the most serious crimes". On the two occasions, in 1999 and 1994, that the European Union attempted to get the United Nations General Assembly to adopt a resolution that called for a moratorium on the death penalty with the view towards its abolition, these attempts failed. This was because a large majority of UN member states disapproved of the EU's attempt to impose their views

³⁷ Sing. *Parliamentary Debates*, vol. 73, col. 887 at col. 931.

³⁸ *Supra* note 25.

³⁹ Ministry of Home Affairs, Press Release, "The Singapore Government's Response To Amnesty International's Report 'Singapore—The Death Penalty: A Hidden Toll of Executions'" (30 January 2004).

and systems on the rest of the world. AI refers to the resolutions adopted in the UN Commission on Human Rights that encourage states to stop executions. However, AI failed to say that on at least seven occasions, a significant number of countries disassociated themselves from those resolutions. In 2003, 63 countries, or one-third of the UN's membership, disassociated themselves

AI accuses Singapore of “*running counter to the worldwide trend towards abolition of the death penalty*”. But whether a country should retain or abolish capital punishment is a question for each country to decide, taking into account its own circumstances. Every country has the sovereign right to decide on its own judicial system. We do not live in a homogenous world. Within certain universally agreed broad parameters, international norms call for the respect of differences of views and beliefs. Singapore does not seek to impose its views on others. We only ask that others do not impose their views on us

Singapore weighs the right to life of the convicted against the rights of victims and the right of the community to live in peace and security. Taking into account our national circumstances, we have made a considered decision to retain the death penalty. It has worked for us, making Singapore one of the safest places in the world to live and work in

Singapore recognises that the death penalty is a severe penalty and cannot be remedied in the event of any mistake in its application. That is why we use it only for very serious crimes. In its efforts to campaign and press its agenda against the death penalty in Singapore, AI has deliberately misrepresented or distorted the facts concerning the death penalty in Singapore. We cite only the following two examples “Majority of those executed are foreigners”: AI's allegation that the total percentage of foreign nationals executed in recent years ‘*is very high*’, and that out of 174 executions recorded by Amnesty International from press reports between 1993 and 2003, ‘*the number of foreigners is more than half*’. This is completely false. Singaporeans, and not foreigners, were the majority of those executed “Is mostly the poor, least educated, and vulnerable people who are executed”: AI also alleges that the death penalty has been disproportionately imposed on the poorest, least educated and most vulnerable members of society. This is also not true. Of those executed from 1993 to 2003, 95% were above 21 years of age, and 80% had received formal education. About 80% of those who had been sentenced to capital punishment had employment before their convictions

While the Singapore government is undertaking a review of the Penal Code, it is thought unlikely that there will be any question of ending the death penalty.