

## SINGAPORE: REVIEW OF MAJOR POLICY STATEMENTS

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### I. INTRODUCTION

As 2004 drew to a close, the region suffered the serious impact caused by the tragedy of the tsunami wave. While Singapore was not affected, many neighbouring states in Asia were severely affected, including Sri Lanka, Thailand and, closest to Singapore, the Indonesian province of Aceh. A full review of the regional and international dimensions of this natural disaster is beyond the scope of this section. However, a survey of Singapore's response is warranted.

The humanitarian efforts undertaken by the Singapore government and society as a whole were unprecedented, and policy statements by Singaporean leaders can be interpreted as marking a shift in foreign policy and views about the sense of obligation on Singapore's part to assist the region.

This shift in both word and deed can be interpreted as a sign that Singapore's engagement with the region and the wider international community is developing beyond a strictly realist paradigm, to include more elements of humanitarian concern and ethical dimensions. A deeper engagement with the region and neighbours appears to be developing, with a greater emphasis on assistance and "win-win" cooperation. Moreover, the policies in Singapore are beginning to take into account the views of a wider cross-section of Singaporeans—such as businesses, non-government organisations and civil society. This makes for a wider circle of stakeholders in foreign policy, in contrast to the overwhelming dominance in the past of political leaders and top civil servants.

There are some similarities in other significant policy statements and decisions in the last year, including the efforts of Singapore to put its ties with China on a better footing, after the recent disagreement raised by Beijing over then Deputy Prime Minister Lee Hsien Loong's visit to Taipei. This was not, of course, a humanitarian issue. However, the statements and decision do appear to have taken into close consideration the concerns and interests of the Singaporean business community.

Realism and "practical" considerations are likely to remain anchors in Singapore's foreign policy and international engagement. The central role of an elite of politicians and senior civil servants in decision-making will also continue. Nevertheless, the events of 2004 represent something of an emerging trend in both the tenor and the processes of foreign policy making, and is a thematic focus that is worthy of further observation and exploration.

Additionally, from the past year, the following issues have been selected:

1. Singapore's response to the tsunami, following the natural disaster on 26 December 2004, and focusing on efforts in Aceh, Indonesia;

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2. Disputes with Malaysia: Singapore's relations with Malaysia and the use of international adjudication to settle disputes between the two neighbouring states following settlement of the Land Reclamation dispute;
3. Singapore's improved ties with China and Taiwan, following protests raised by China concerning a visit by then Deputy Prime Minister Lee Hsien Loong to Taipei;
4. Maritime security in the Straits of Malacca and in the region, following an incident involving a Japanese vessel in the Straits of Malacca and the conclusion of the *Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia* (ReCAAP);
5. Human Rights: Singapore's latest report under the Convention to Eliminate All Forms of Discrimination Against Women (CEDAW), and the statements by government leaders over issues in Myanmar;
6. Diplomatic and consular relations law: Singapore expressed an intention to accede to the *Vienna Convention on Diplomatic Relations 1961* and the *Vienna Convention on Consular Relations 1963* during the Second Reading of the *Diplomatic and Consular Relations Bill*. The Act received the President's assent on 3 February 2005;
7. Trade and Environment, following allegations that Singapore had exported hazardous "organic material" to Batam.

## II. SINGAPORE'S RESPONSE TO THE TSUNAMI

Singapore's response to the tsunami was rapid and substantial, both in assistance and in monetary donations. The level of government aid given far exceeded anything given before. There was also an extensive deployment of military staff and equipment, and officials from other departments such as the police and civil defence force. The Singapore government also took the initiative to help bring the United Nations (UN) and international donors to the ASEAN conference in Indonesia. In total, government estimates were that the Government's contribution was over \$70 million, including an initial pledge of \$5 million for immediate relief; \$16.5 million for reconstruction; and a further \$44 million in kind, for the deployment of assets and personnel in affected countries.<sup>1</sup> At this conference, PM Lee emphasised Singapore's sense of interdependence and shared responsibility with the international community, and its hope to work with and through the UN<sup>2</sup>:

The global community has to respond collectively, to restore normalcy and help rebuild the affected countries. No country can look on and pass by, ignoring the desperate needs of fellow human beings who happen to be citizens of some other country.

Singapore is a small country and what we can do by ourselves is only a drop in the ocean. But Singapore can still make a useful contribution, because fortuitously we are strategically located close to the afflicted region, and have well developed communications and transport links. Hence our relief efforts could reach our affected neighbours quickly, when they were most needed.

We have been working with our neighbours to send emergency assistance to the affected areas. We currently have some 900 personnel, as well as heavy helicopters, aircraft and two helicopter landing ships conducting relief operations in Aceh. 700 of

<sup>1</sup> Peh Shing Huei, "S'pore's tsunami aid close to \$150m: Govt and NGOs split bill evenly for nation's biggest relief exercise" *the Straits Times* [of Singapore] (19 February 2005), H5. The report is based on a Parliamentary statement given by Zainal Abideen Rashid, the Minister of State for Foreign Affairs, in reply to a question in the House.

<sup>2</sup> Prime Minister Lee Hsien Loong, Opening Statement at the Special ASEAN Leaders' Summit on Earthquake and Tsunamis, Jakarta, Indonesia, 6 January 2005, online: <<http://app.sprinter.gov.sg/data/pr/2005010607.htm>>.

them are in Meulaboh, which is the worst affected town and still cut off by land. We have also sent equipment and personnel to Thailand, Sri Lanka and the Maldives.

We have opened our air and naval bases to all countries for use as staging areas for the disaster relief operations to Aceh. We have also offered the UN the use of facilities in Singapore for its relief efforts. This will complement facilities that the UN already has elsewhere in the region.

Many individual Singaporeans have also responded spontaneously. Besides making donations, several hundreds have also volunteered as medical and relief personnel or logistics and communications specialists, and are working alongside other NGOs in the affected areas.

Beyond what individual countries are doing, we need to coordinate the efforts of different countries, and help to focus these efforts on the most urgent problems. Otherwise, with so many donors giving help to so many different countries, the total may well add up to less than the sum of its parts.

In global crises, countries turn to the United Nations. Despite its limitations, the UN is the only universal global institution able to fulfil this role. Secretary-General Kofi Annan's presence here this morning symbolises the UN's commitment. The OCHA under Jan Egeland, in particular, has quickly mobilised all available resources to tackle this crisis. I commend the UN for its swift response. Every country should do all it can to support them.

I believe that the UN is uniquely placed to do three things: To coordinate the immediate relief efforts and resources; To put in place an international early warning system for tsunamis in the Indian Ocean; and To sustain the political will for the immense longer term reconstruction effort.

An extraordinary effort will be required. I commend the UN for launching a flash appeal at this Conference, and organising an International Pledging Conference in Geneva next week. Singapore will pledge US\$10 million beyond what we have already committed to do.

I also propose that the UN Secretary-General appoint a Special Representative with primary responsibility for coordinating international relief efforts for the affected countries and to work with International Financial Institutions, such as the World Bank and the Asian Development Bank, to mobilise new and additional resources for reconstruction. The Special Representative should also work closely with the WHO and national public health authorities to address the immediate and longer term public health challenges.

The most important long term role of the Special Representative will be to sustain international attention and political will for the reconstruction effort. Past tragedies have shown that natural disasters leave a long aftermath, but the world's attention span is, unfortunately, short. For now, the world is focussed on the earthquake and tsunami, and so are the international media. But before long, some other event elsewhere in the world ... will grab the world's attention. Then the headlines will shift to it, and Banda Aceh, Meulaboh, Galle, Male, Nicobar, Cuddalore and Khao Lak will again recede from our collective consciousness. But the people living in these and other affected regions will have to live with their hard problems for a long time to come.

Therefore let us seize this unique moment of focus and shared purpose, to commit ourselves to concrete steps that will help the affected countries to tackle their problems

in a prompt, effective, and, most importantly, in a sustained way. Then in time we can rebuild what we have lost, and prevent a similar disaster from happening again.

The Singapore government also organised a large-scale memorial service in Singapore on 9 January 2005. While the service marked the Singaporean lives lost in the tragedy, it also consciously marked the larger losses suffered by other countries, by including spokesmen from the five affected countries on the podium.

At the memorial service, PM Lee spoke to emphasise Singapore's empathy with the victims, as, "a small nation with a big heart". Yet while noting the record levels of giving by Singaporeans, he also emphasised the cooperation and leadership role of the governments in the affected countries<sup>3</sup>:

This evening, we gather to remember all those who have died in this calamity, whatever their nationality or race, and to mourn with their families and loved ones. Our deepest condolences go to every person who has lost someone dear, and to every community which has been ripped apart by this cruel wave. We hope you find comfort knowing that you do not mourn alone. Today the Singapore flag flies at half-mast. It stands as a mark of our nation's respect, condolence and solidarity, with our fellow men across the world, as we mourn for all the victims of the disaster.

...

The plight of the victims has touched a deep emotional chord among Singaporeans. We share a common humanity with those who have been hit. We had to act and try to make a difference to them.

We have responded as one people, with a massive, spontaneous outpouring of compassion and generosity, on a scale unlike any Singapore has ever witnessed. Young or old, rich or poor, alone or in groups, you gave of your time and resources. In just a few days, hundreds of volunteers came forward, millions of dollars were raised, and tons of food, clothing and other essentials were collected. Children broke open piggy banks to contribute their savings. Schools organized fund-raising activities. Grassroots groups rallied support across the island. Doctors, nurses and those still in training volunteered to go. Temples, churches and mosques passed the hat around their flocks, and organised voluntary relief missions. Companies mobilised their staff and their assets to join the worldwide effort to help the stricken. I want to acknowledge these and many other efforts of Singaporeans and Singapore residents. When we saw our fellow human beings in desperate need, we did not pass by on the other side.

As a government, we are mounting our largest overseas relief effort ever. Our uniformed personnel, our doctors and nurses, and other volunteers are doing their utmost. They are providing relief, carrying out search and rescue operations, and doing forensic work to help identify the victims. I met many of them in Aceh. We also have teams in Phuket, Sri Lanka and the Maldives. Our people are doing magnificently. They are professional, resourceful, tireless, and keeping their own spirits high in an emotionally draining environment. When the task force in Meulaboh managed to open landing points to supply the town by sea, Singaporeans and Indonesians alike cheered at their breakthrough.

To the men and women of the Singapore Armed Forces, the Singapore Police Force, the Singapore Civil Defence Force, the ministries and agencies, the charitable and

<sup>3</sup> Prime Minister Lee Hsien Loong, speech at the Tsunami Disaster Memorial Service, 9 January 2005, online: <<http://app.sprinter.gov.sg/data/pr/2005010901.htm>>.

religious organizations, and every volunteer and helper, let me thank you and salute you. You make us proud to be Singaporeans.

I also want to acknowledge the co-operation and help that the authorities in Indonesia, Thailand, Sri Lanka and the Maldives are providing to Singaporeans who have lost loved ones, and to our humanitarian assistance teams there. These officials have seen their homelands devastated. Many have themselves lost family members. Yet they soldier on faithfully at their posts. Their leadership, determination and selflessness are an inspiration to us all.

Rebuilding the affected areas is a monumental task that will take several years. The international community has been generous in committing to help. Singapore will do our part. The affected countries will need to take the lead, because they know their own needs and priorities best. I believe they have the will to do so. Among the survivors I met, I sensed a strong determination to recover and not to give up. People are retrieving their belongings, displaced families are staying with fellow villagers, shops are re-opening, and children smiled and waved as we passed. Amid the trauma and grief there was resilience, strength and hope.

This unforeseen natural catastrophe is a reminder of how vulnerable we are, how precious and fragile life is, and how resilient we must be in the face of adversity. In previous crises Singaporeans have responded with courage and compassion, most recently during the SARS outbreak. This tsunami disaster is different. The events are taking place far beyond our shores, most of our people were not in danger, and our losses are fewer. But still we have reached out to those from all over the world who have lost their loved ones, and strived to help our neighbours in their hour of need, because we felt it right to do so. This experience has drawn Singaporeans closer to one another as one nation. This is the Singapore spirit—a small nation with a big heart.

Today, as we remember all those who have perished, let us also help to restore the living. However destructive the forces of nature, may we marshal the will to rebuild homes and lives. However painful the loss, may we find the strength to go on living. May those grieving find peace and solace. And may all of us resume our journey forward with hope and determination, as individuals and families, as a nation together and as part of the global community.

While mobilising quickly and effectively, PM Lee and other Singaporean leaders have consistently emphasised the need for efforts not just to clear up the immediate mess and impact. They have emphasised instead the need for sustained attention and help to ensure the affected areas develop in the medium and longer term. PM Lee has also spoken of the need to engage our neighbours because of “our values”. Other political leaders have spoken of a sense of “solidarity” with the region.

PM Lee also noted that corporations and citizens have given generously, in cash or kind. Their collective response outstripped anything previously seen in Singapore, with more than \$75 million collected. This was not only on par with official giving. Public compassion indeed can be seen as a factor driving the Singapore government to go beyond its initial, modest commitment.

Connected to this has been the multiple ways in which Singaporeans have gone beyond making donations to reach out to the affected communities. The government and especially military efforts provided an organised centre, with “government sanctioned” institutions like the Red Cross, National Volunteer and Philanthropy Centre and Singapore International Foundation playing their role. But so too did a growing number of community organisations like Touch International and Mercy Relief as well as a myriad of religious and *ad hoc* groups.

The assistance given was not just from government to government, but between the peoples of the different communities. This public concern has helped to both support and shape the Singapore government's responses.<sup>4</sup>

### III. DISPUTES WITH MALAYSIA

#### A. *On-going Negotiations*

Singapore continued to try to mend ties and settle outstanding issues with neighbouring Malaysia under the leadership of its new Prime Minister Abdullah Badawi. On Singapore's part, these discussions were given over to its immediate past Prime Minister and now Senior Minister, Goh Chok Tong. Initial discussions were marked by a congenial atmosphere, much different from tensions in the recent past.

However, as 2004 came to an end, articles in two major publications in Malaysia urged Malaysian Prime Minister Abdullah Badawi's government to press Singapore harder in relation to the use of Malaysian airspace by Republic of Singapore Air Force (RSAF) jets. They appeared in the wake of Senior Minister Goh Chok Tong's visit to Kuala Lumpur earlier that month where Prime Minister Badawi was reported to have expressed willingness to consider allowing RSAF jets to cross Malaysian airspace en route to their training areas.<sup>5</sup> Senior Minister Goh was reported to have been willing to release Central Provident Fund money belonging to Malaysian nationals who have left Singapore and now wish to withdraw their savings before the age of 55. A link between the two statements was denied,<sup>6</sup> but one of the Malaysian articles suggested that the airspace issue should be linked to Malaysia's proposal to build a bridge to replace the Johor Causeway. The other article warned against taking a soft attitude towards Singapore. The stories were picked up by the Singapore press.<sup>7</sup> The articles in the Malaysian press followed earlier reports of Malaysian Deputy Prime Minister and Defence Minister Najib Tun Razak explaining that Malaysia was yet to decide if it would allow RSAF jets to use Malaysian airspace.<sup>8</sup>

During an interview with journalist, Dorothy Teoh, prior to his visit to Kuala Lumpur in December 2004, SM Goh explained that<sup>9</sup>:

It's not advisable to set a timeframe, because then you are under an artificial deadline. If you don't meet the timeframe, everybody will comment that there has been no progress in the negotiations—it is a failure. That would in itself complicate matters. The issues have been there for many years—some as many as 10 years—so we can wait a few more months, if necessary. Well, I have told my MFA to tell Prime Minister Abdullah Badawi's office that I will make a visit to Kuala Lumpur before the year is up. So that is the first step to make progress on our bilateral negotiations on the issues which are still outstanding... Malaysia has signalled that it would like to break up the package into individual components. I mean, that was decided by (former) Prime Minister Mahathir and Prime Minister Abdullah Badawi also preferred to deal with it issue by issue. So if that is his preferred approach, we would accept his approach. But

<sup>4</sup> For further argument on this trend in Singaporean foreign policy-making, see Simon S.C. Tay, *Singapore Foreign Policy in 2004 and After*, Perspectives 2005 (Institute of Policy Studies/Oxford Press: forthcoming 2005).

<sup>5</sup> "KL Yet to Decide on Opening Airspace to RSAF" *the Straits Times* [of Singapore] (23 December 2004).

<sup>6</sup> "Call to Drive Hard Bargain with Singapore over Airspace" *the Straits Times* [of Singapore] (30 December 2004).

<sup>7</sup> *Ibid.*

<sup>8</sup> *Supra* note 5.

<sup>9</sup> "Extract of transcript of Senior Minister Goh Chok Tong's Interview with Journalists from the Regional Journalist Visit Programme and Indian Journalist Visit Programme, in Conjunction with Global Entropolis @ Singapore, 14 October 2004", Singapore Government Press Release, 14 October 2004.

I would not want to, as I've agreed with Prime Minister Abdullah Badawi, negotiate through the press. So I would not give any inkling as to Singapore's position on the negotiations. I would not be signalling to Malaysia through the press on what our expectations are. It's a sensitive process, as you can appreciate. So it's best that I meet Prime Minister Abdullah Badawi privately and then we try to resolve the issues. Now, the point I want to make is that we have a new Prime Minister in Singapore. He and Prime Minister Abdullah Badawi should look forward. They should not be bogged down by outstanding issues from the past. I am honoured that both Prime Ministers have confidence in me, using me as the interlocutor to resolve the issues.

Asked whether his warm personal relationship with Malaysian Prime Minister Badawi has a bearing on negotiations, Senior Minister Goh replied:

Trust is important. And because of this warm relationship, there is trust. I trust him and I hope he trusts me as well. And if we negotiate, if I tell him this is what I can do, this is what I can't do and I propose to resolve it in a certain way, he can be sure that behind what I've offered, there'll be no tricks, there's nothing hidden. So, this trust element is an important issue when you negotiate... Which was less conspicuous in the past. But let me emphasise that he (Prime Minister Abdullah Badawi) would have to look after the national interests of Malaysia and I have to look after the national interests of Singapore. It doesn't mean that because of trust, we can resolve all issues, because there are certain issues which are in fact difficult to resolve... I do not want to specify the issues. It only complicates matters. But I would try to resolve these issues. It makes no sense for us to be bogged down by these issues. Let's look forward and cooperate for mutual benefit. There is much to gain by working together.

In his speech to Parliament on 19 January 2005, Prime Minister Lee Hsien Loong said<sup>10</sup>:

We are cooperating with our neighbours for mutual benefit and managing the inevitable outstanding issues, which arise between close neighbours. In Malaysia, our economic cooperation is going well. We have invested in Malaysian companies, banks, telecom companies. They have invested in a shipping line and most recently a stockbroker. We welcome them to invest in Singapore.

We have outstanding bilateral issues with Malaysia, of course. We are resolving the reclamation issue amicably through third party arbitration. We have issues left over from the package which we were negotiating with Prime Minister Mahathir Mohamad which unravelled, and SM Goh is now discussing these issues with Prime Minister Abdullah Badawi. They have not been resolved yet but SM Goh has agreed with Prime Minister Abdullah on two basic principles. First, any proposal should be mutually beneficial; and second, these old issues should not hold future cooperation hostage. These are two very important principles to start off with.

### B. *Settlement of Land Reclamation Dispute*

The land reclamation dispute with Malaysia was reviewed in the previous issue of this *Year Book* following the conclusion of the hearing before the International Tribunal on the Law of the Sea (ITLOS) on Malaysia's request for provisional measures.<sup>11</sup> The dispute on

<sup>10</sup> "Speech by Prime Minister Lee Hsien Loong in Parliament on 19 January 2005- Singapore is Opportunity", Singapore Government Press Release, 19 January 2005.

<sup>11</sup> Simon S.C. Tay, "Singapore: review of Major Policy Statements" (2004) 8 S.Y.B.I.L. 219 at 221-223. See also Philippe Gautier, "The International Tribunal for the Law of the Sea: Activities in 2003" (2004) 3 Chinese J.I.L. 241 at 254-265.

the merits, which had been awaiting arbitration, has since been settled through diplomatic means. A joint press statement was issued by both countries on 9 January 2005<sup>12</sup>:

1. The Governments of Malaysia and Singapore met on 22-23 December 2004 and on 7-9 January 2005 to consult on how to implement the recommendations made by the Group of Experts (G.O.E.) contained in the report entitled "Report of the Group of Independent Experts (G.O.E.) in the matter of the ITLOS Order of 8 October 2003" ("G.O.E. Report"), which was submitted to the two Governments on 5 November 2004. The delegations were led by the respective Agent of each Government, and consultations and discussions were very friendly and productive. It will be recalled that the G.O.E. was set up by the two Governments pursuant to an Order by ITLOS to conduct a one year study on the reclamation activities and to recommend, where appropriate, measures to deal with any adverse effects.
2. The G.O.E. made a presentation to the Governments on 22 December 2004 on the G.O.E. Report, and this marked the formal completion of the G.O.E.'s work. Both Agents reiterated their Governments' appreciation for the capable and professional manner in which the study was undertaken. The two Governments were gratified that the G.O.E. Report was a unanimous one. In turn, the experts expressed their appreciation to the two Governments for their cooperation and confidence in them.
3. Both Governments accepted the recommendations of the G.O.E. and agreed to use these recommendations as the basis of a mutually acceptable and beneficial solution. Very good progress was made during these two meetings, and the two delegations concluded an ad referendum agreement. Malaysia will be submitting the draft Settlement Agreement to its Government for approval and signature.
4. The two Governments agreed that the waters in the Straits of Johor constitute a shared water body. They recognised that they have a common interest in cooperating to ensure the safety of navigation in the Straits of Johor. The two Governments also recognised that they have a common interest in cooperating to protect the environment, including the monitoring of water quality to protect the marine and estuarine environment, and monitoring ecology and morphology in the Straits of Johor and to address any adverse impacts, if necessary.
5. In this regard, the two Governments agreed that monitoring and exchange of information in these two areas will be done through existing mechanisms, namely, the Maritime and Port Authority of Singapore-Johor Port Authority (MPA-JPA) Operational Meeting of which, for the Government of Malaysia, a representative of the Marine Department, Peninsular Malaysia shall be designated to co-chair the said Meeting, and the Malaysia-Singapore Joint Committee on the Environment (MSJCE).
6. The meeting ended on 9 January 2005 with the Parties agreeing ad referendum on the text of a draft Settlement Agreement. The two Governments then appeared before the Annex VII Tribunal in The Hague on 10 January 2005 to provide a briefing on the progress of the consultations. The two delegations will submit the draft Settlement Agreement to their respective Governments for approval before signing on a date and venue to be agreed upon.
7. The Singapore side has proposed for the Settlement Agreement to be submitted to the Annex VII Tribunal for their adoption to constitute the basis for an award. The Malaysian side has agreed in principle to an award by the Annex VII Tribunal subject to the approval by the Government of Malaysia.
8. The positive outcome of the Meeting between the Malaysia and Singapore delegations reflects the goodwill and cooperation which exist between them and their

<sup>12</sup> "Case Concerning Land Reclamation by Singapore in and around the Straits of Johor—Joint Press Statement", Singapore Government Press Release, 9 January 2005.

respective Governments. This augurs well for the further strengthening of good relations between these two friendly and close neighbours.

During a press conference on 26 April 2005, Ambassador Tommy Koh, Agent of the Government of the Republic of Singapore explained that<sup>13</sup>:

Singapore is happy with the outcome of this matter because:

...

One, the joint study ordered by the International Tribunal for the Law of the Sea (ITLOS) resulted in a unanimous Report by the group of independent experts. This reflected very well on the four experts, who were able to work in a collegial fashion and in a very professional manner. I want to take this occasion to join the distinguished Foreign Minister of Malaysia in thanking them and thanking DHI as well.

...

Two, it is good news for both Malaysia and Singapore that after their 13-month study, the experts have found that Singapore's reclamation works, contrary to some fears expressed earlier, have not caused any serious impact. Of the 57 impacts identified by the experts, they found that 40 of them could be detected only in the computer model, but not likely to be detectable out in the field. And of the remaining 17 impacts, they suggested mitigating measures which would eliminate them. The happy news, of course, is that the two delegations were able to agree on the appropriate way in which these recommendations would be implemented.

...

Three, the joint study's recommendations have enabled the two delegations to reach an amicable settlement, and I quote the words used by the two Foreign Ministers, a settlement that is both "fair and balanced". Our settlement was arrived at in a spirit of cooperation and goodwill, taking into account the interests and concerns of the two sides.

...

Finally, Malaysia and Singapore have agreed to terminate the arbitration proceedings that Malaysia started in July 2003. Singapore will continue with its reclamation works both at Tekong and at Tuas. However, in recognition of the fact that the Straits of Johor is a shared body of water, and that both sides have an interest in this body of water, the two sides have agreed to continue to inform and consult the other through the two existing mechanisms that Foreign Minister Syed Hamid referred to, the Malaysia-Singapore Joint Committee on the Environment and in the case of navigational issues, the Maritime Port Authority of Singapore-Johor Port Authority Operational Meeting. The only change we have made is that it will be co-chaired, on the Malaysian side, by a representative of the federal, rather than the Johor Port Authority.

...

My conclusion is that this settlement is a happy milestone in Singapore-Malaysia bilateral relations. I believe that, given our proximity and close interaction, issues will, from time to time arise, that require that we address them. I think that the amicable way in which our two delegations have been able to resolve their differences augurs well for the future of Malaysia-Singapore bilateral relations.

<sup>13</sup> "Transcript of Press Conference by Professor Tommy Koh, Agent of the Government of Singapore for the Reclamation Issue and Mrs Cheong Koon Hean, Deputy Secretary (Special Duties), Ministry Of National Development on Tuesday, 26 Apr 2005", Singapore Government Press Release, 29 April 2005.

In his welcome remarks during the Signing Ceremony of the Settlement Agreement, Foreign Minister George Yeo remarked that<sup>14</sup>:

With the signing, we will be closing an old chapter on a bilateral dispute which began during a period of more troubled bilateral relations but ends today in an atmosphere of warmer bilateral cooperation.

...

In fact, this spirit of bilateral cooperation has been prevalent throughout the past year-and-a-half. The working relationship between our officials was excellent. This collegial spirit infected the group of international experts that Malaysia and Singapore had appointed to assist us in the resolution of our dispute. The good work of our officials and the international experts has enabled [us] to arrive at an amicable settlement, which both countries see as fair and balanced. The civil and civilised manner in which we have been able to settle this dispute gives us confidence that our other bilateral disputes can be settled in the same way. As neighbours, it is inevitable that bilateral disputes should arise from time to time. We have demonstrated in this case and in the Pedra Branca case that where there is an impasse, rather than let our bilateral relations be held hostage to the dispute, we are prepared to have the matter referred to third party adjudication or arbitration. As good neighbours, we can overcome such disputes on the basis of mutual benefit and mutual respect.

#### IV. SOVEREIGNTY: TIES WITH CHINA AND TAIWAN

Following the controversy regarding PM Lee Hsien Loong's visit to Taipei in 2004, various efforts were made in 2005 to put ties with China back on an even keel. A string of exchange visits demonstrated this.

Foreign Minister George Yeo made visits to China on 28 January-3 February 2005, at the invitation of PRC Foreign Minister Li Zhaoxing. During the visit, Minister Yeo met Premier Wen Jiabao and Commerce Minister Bo Xilai. He also visited Liaoning for an update on the progress in the revitalisation of China's Northeast.

Minister Mentor Lee Kuan Yew visited China three times in the first half of 2005. The first visit was a one-day visit to Shenzhen on 31 March 2005 during his visit to Hong Kong. The second visit was to attend the China Reform Forum and Boao Forum in Hainan on 20-23 April 2005. The third visit was to Shanghai on 15-17 May 2005 to address the Bain & Co's Conference. During this visit, Minister Mentor met Shanghai Party Secretary Chen Liangyu.

Reciprocating, China's National People's Congress (NPC) Chairman Wu Bangguo visited Singapore on 17-19 May 2005 at the invitation of Prime Minister Lee Hsien Loong. During the visit, Chairman Wu met with President S R Nathan, Prime Minister Lee Hsien Loong, Minister Mentor Lee Kuan Yew and Speaker Abdullah Tarmugi. Chairman Wu also witnessed the signing of a Memorandum of Understanding on the establishment of the Singapore-China Joint Investment Promotion Committee. The visit by Chairman Wu was seen by Chinese officials as pushing the bilateral relations to "a new high".<sup>15</sup>

Notwithstanding these efforts to improve ties with China, the Singapore government articulated its position that differences between the two countries would appear from time

<sup>14</sup> "Welcome Remarks by Minister George Yeo at the Signing Ceremony of the Settlement Agreement of the case Concerning Land Reclamation", Singapore Government Press Release, 26 April 2005.

<sup>15</sup> See "Wu's Singapore Visit to Boost Bilateral Ties: Ambassador", online: <<http://www.china.org.cn/english/international/129024.htm>>.

to time, as both were sovereign states with sometimes different national interests. Minister Mentor Lee Kuan Yew addressed the issue during a dialogue session at the Foreign Correspondents' Association Dinner in December 2004<sup>16</sup>:

...[N]o relationship between two countries can always be smooth and on the up. There are bound to be interests that collide and we just accept that as a reality of life.

What is special in China's case is that, unlike with Britain or Europe or the US, when there is a conflict of interest, everything at the G-to-G level stops. Contacts were frozen, but fortunately, private enterprise, companies operating there continued.

But I'm sure if you take it to a further degree, even that may come to a freeze. I was told that in the case of Taiwan, one Taiwanese company that had invested in some complicated chemical factory along the Yangtze had to have its products carried by ship, not by road, for fear of a collision. The owner was a supporter of the pro-independence candidate who became president, Chen Shui-bian. I was told that shortly afterwards, a regulation was promulgated that disallowed these chemicals to be taken by ship.

So you have to cater for these temporary glitches from time to time. I'm quite sure it's not going to be forever because they want more Taiwanese investment. But it is a signal to pro-independence investors in China that they should observe China's core interests.

We have observed China's core interests, we have declared our position. The situation has abated, but I do not believe that this is the last time we will disagree. We are two different countries. They are big and they can afford to say: "These are my core interests, you have to observe them".

But small countries also have core interests, and even if others feel we should not observe them, we feel sometimes it's necessary for us to defend our core interests. So it is possible that in future there could be such further breaches.

But over the long term, I do not see any fundamental division between what they want to do, what they consider to be their rightful place in the world and what we accept as their eventual position in this world, namely, as a return to the position they occupied in the 18th century when they were about 20 to 25 per cent of the world's G.D.P. I think it's a matter of time; it will return to that level.

Events in 2005 tested the tenor of the Singapore government in articulating positions that were independent from China's and yet acceptable to it. This was particularly tested as tensions in Northeast Asia escalated, first over cross-Straits relations, and then in Sino-Japanese ties.

On cross-Straits relations, Singapore's position in response to the enactment of China's Anti-Secession Law differed from that of some states who saw the law as provocative and "hawkish". Instead, a spokesman for the Ministry of Foreign Affairs took the view that<sup>17</sup>:

Singapore understands the reason for China wanting to enact this law at this point in time. From the briefing given by National People's Congress Standing Committee Deputy Chairman Wang Zhaoguo, it would appear that the law restates China's known position against Taiwan independence with a strong emphasis on peaceful resolution. Singapore's position on "One China" is well known.

<sup>16</sup> "On Pacts, China, EU and the Euro" *the Straits Times* [of Singapore] (23 December 2004).

<sup>17</sup> "MFA Spokesman's Comments on China's Anti-Secession Law", Singapore Government Press Release, 9 March 2005.

Singapore's good relations with both China and Japan were also tested when Sino-Japanese relations soured over a number of differences and questions of Japan's historical role and responsibility for World War II. The question of Japan's historical accountability resurfaced with a new approved Japanese textbook that, to some, mis-stated history and denied Japanese culpability. A spokesman for the Ministry of Foreign Affairs stated<sup>18</sup>:

It is unfortunate that the textbook authorities in Japan had chosen to approve this rather strange interpretation of the Pacific War in Asia. It has strained relations between Japan and its neighbours, in particular China and Korea. This is not in the interest of the entire region.

History should not be denied. But we hope that the countries concerned can keep emotions in check and work towards a solution so that, while history is properly remembered, it does not become an insurmountable problem in the development of good relations.

On the same day, PM Koizumi had apologised for Japan's war record during the Asian-African Summit in Jakarta. Spokesman for the Singapore Ministry responded by saying that<sup>19</sup>:

We welcome Prime Minister Koizumi's apology to countries which suffered Japanese aggression during the Pacific War. It is in the interest of Japan and all these countries to build upon this positive action of the Japanese Prime Minister. We believe that Japan has an important role to play in Asia and the world. Japan will be better able to play such a role once this history issue is overcome. We hope that this statement will begin a process that will stabilize relations between Japan, China and Korea. This is in the interest of the entire region.

Speaking to the media after the event, Prime Minister Lee Hsien Loong called Japan's formal apology to China "highly significant", and urged both countries and their Asian neighbours to take this opportunity to open a new chapter in relations.

#### V. MARITIME SECURITY IN THE STRAITS OF MALACCA AND IN THE REGION

During the period under review, the Singapore government continued to voice its concerns over security and safety in the Malacca Straits, the narrow and busy international waterway between Malaysia and Indonesia, through which ships pass to and from Singapore's port. A growing number of security analysts based in Singapore warned of possible terrorist attacks on the seas. None eventually occurred. Piracy, a long-standing problem in the Straits and other parts of the seas in the region, however again drew attention.

In April 2005, pirates attacked a Japanese-owned bulk carrier in the Malacca Straits, the second Japanese-owned ship targeted in less than a month.<sup>20</sup> A spokesman for the Ministry of Foreign Affairs said<sup>21</sup>:

The Japanese Government officially requested the Singapore Government's assistance in providing any information on the attack last night. Our port authority has immediately alerted our Coast Guard and all ships within Singapore waters to the incident.

<sup>18</sup> "MFA Spokesman's Comments on Japanese History Textbook Issue", Singapore Government Press Release, 22 April 2005.

<sup>19</sup> "MFA Spokesman's Comments on Japanese PM Koizumi's Remarks", Singapore Government Press Release, 22 April 2005.

<sup>20</sup> Vivian Ho, "Pirates attack Japanese-owned ship in Malacca Strait", online: <<http://home.kyodo.co.jp/all/display.jsp?an=20050401187>>.

<sup>21</sup> "MFA Spokesman's Comments: Attack on a Japanese Vessel in The Malacca Straits", Singapore Government Press Release, 15 March 2005.

As a littoral state, Singapore will render whatever assistance we can. This incident shows that all stakeholders need to cooperate closely in order to tackle the piracy problem effectively.

Elsewhere, there have also been other efforts towards anti-piracy cooperation amongst the ASEAN countries, China, Japan, the Republic of Korea, India, Sri Lanka and Bangladesh. On 28 April 2005, Singapore, Japan, Laos and Cambodia became the first countries to sign the *Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia* (ReCAAP). The Agreement, a Japanese initiative which was concluded in Tokyo in November 2004, has been open for signature since 28 February 2005. The Information Sharing Centre (ISC) established under the Agreement will be an international organisation located in Singapore. As the ISC host, Singapore is also the depository of the Agreement.<sup>22</sup>

## VI. HUMAN RIGHTS

### A. *Convention for the Elimination of Discrimination Against Women*

Having acceded to the Convention for the Elimination of Discrimination Against Women (CEDAW) in 1995, Singapore submitted its third and latest report to the UN Committee for CEDAW on 1 November 2004.<sup>23</sup> In the foreword to the Report, Mrs Yu-Foo Yee Shoon, Minister of State for the Ministry of Community Development, Youth and Sports said<sup>24</sup>:

Today, in our globalised world, our women do work and live overseas. The change in our citizenship laws now allows a child born overseas to a Singaporean mother to acquire Singapore citizenship by descent, rather than in the previous manner where the mother has to register her child. This is an important step to recognize the changing role and contributions of Singaporean women.

Other notable improvements during the period covered by the report include the removal of the quota imposed on women seeking admission into medical school and granting equal medical benefits for male and female civil servants.<sup>25</sup>

### B. *Myanmar*

The situation in Myanmar drew attention from the Singapore government, as Myanmar's turn to chair ASEAN approached. ASEAN's dialogue partners, including the USA and European Union, have communicated that their dialogue with ASEAN as a group would suffer consequently, as would their participation in the annual ASEAN Regional Forum (ARF), normally attended by foreign ministers. Singapore's position on Myanmar was closely watched by observers as the country is one of the largest investors in Myanmar. Moreover, Singapore has at times held that human rights questions should not be subject to external criticism, especially by Western countries.

<sup>22</sup> "MFA Press Statement: Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia", Singapore Government Press Release, 28 April 2005.

<sup>23</sup> Singapore's initial report and its second and third period reports as well as additional information may be found on the website of the Ministry of Community Development, Youth and Sports, online: <<http://app.mcys.gov.sg>>.

<sup>24</sup> "Singapore Submits Third Periodic Report To The United Nations Committee On The Elimination Of Discrimination Against Women (CEDAW)", Singapore Government Press Release, 18 December 2004.

<sup>25</sup> *Ibid.*

In a Parliamentary session on 4 March 2005, Foreign Minister George Yeo, in responding to questions by a Parliamentary colleague, disclosed his hope that Myanmar would take steps not to adversely affect ASEAN and the ARF's standing and participation<sup>26</sup>:

[I]t is not the ASEAN way to put things in such a stark and confrontational manner. I am sure we will have meetings behind closed doors, and our words will be suitably lubricated with courtesies and acknowledgements of respect. But I think in the end, ... some hard messages may have to be put across because ASEAN and the ARF are being affected by what's happening in Myanmar. If these are just domestic political problems, with no impact on the world outside, then it is for the Myanmar people to resolve them themselves. But there is an impact on us.

Following the ASEAN foreign ministers' retreat, the Singapore minister revealed to the media that:

This issue was discussed during an extended coffee break. It was conducted as an intimate and private discussion among close family members on a sensitive matter.

ASEAN ministers expressed their frank views on the issue. We re-affirmed that ASEAN cannot interfere in the domestic affairs of Myanmar. Indeed, whatever steps Myanmar decides to take, it will be the Myanmar themselves who will bear the consequences, be they good or bad. On ASEAN's part, there is great reluctance to take away Myanmar's Chairmanship as this will set a bad precedent. However, ASEAN is in danger of being dragged into Myanmar's internal politics because of the Chairmanship issue which in turn could complicate Myanmar's internal political situation. It would be best to decouple the 2 issues.

The Myanmar Foreign Minister listened carefully and said that he would convey these views back to Yangon. We realise that this is a tough decision for Myanmar to make. We hope that the Myanmar would make the decision on this soon.

I am not unhopeful. During PM Lee's recent visit to Myanmar, he had met with the top Myanmar leadership. They had expressed to PM Lee that Myanmar was not a "selfish" country and would take into account ASEAN's views and consider ASEAN's interests

## VII. DIPLOMATIC AND CONSULAR LAWS

On 25 January 2005, the *Diplomatic and Consular Relations Act 2005*<sup>27</sup> was passed by Parliament, following the announcement that Singapore intended to become party to the *Vienna Convention on Diplomatic Relations 1961* and the *Vienna Convention on Consular Relations 1963*. During the Second Reading of the *Diplomatic and Consular Relations Bill*,<sup>28</sup> Minister of State for Foreign Affairs Mr Zainul Abidin Rasheed stated:

This Bill seeks to enact the new Diplomatic and Consular Relations Act which gives force of law in Singapore to relevant provisions of the Vienna Convention on Diplomatic Relations 1961 and the Vienna Convention on Consular Relations 1963. This Bill will repeal the existing Consular Conventions Act (Cap. 52) and the Diplomatic Privileges (Commonwealth Countries and Republic of Ireland) Act (Cap. 83) whose provisions will be superseded by the new Diplomatic and Consular Relations Act.

<sup>26</sup> "Replies by Minister for Foreign Affairs George Yeo to Supplementary Questions in Parliament on the Strategic Overview", 4 March 2005, online: <<http://www.mfa.gov.sg/internet>>.

<sup>27</sup> Act 8 of 2005.

<sup>28</sup> "MOS Zainul Abidin's address in Parliament on Diplomatic and Consular Relations Bill 2004", Singapore Government Press Release, 25 January 2005.

The Bill will also make related amendments to the Income Tax Act (Cap 134) and the Merchant Shipping Act (Cap 179).

...Singapore is currently not a signatory to the Vienna Convention on Diplomatic Relations 1961 and the Vienna Convention on Consular Relations 1963, although we follow closely the provisions of both Conventions in our dealings with foreign missions in Singapore and in managing our overseas missions in other countries. The two Conventions are universally recognised as customary international laws governing the protection and granting of privileges and immunities by the receiving State to diplomatic and consular missions and members of the missions so as to facilitate the smooth functioning of the foreign missions in the receiving State. To bring ourselves in line with international practices, Singapore has decided to accede to both the Vienna Convention on Diplomatic Relations as well as the Vienna Convention on Consular Relations without any reservations.

... I would like to highlight two key features of the Bill. Under Article 6, the Minister for Foreign Affairs has the prerogative to extend certain privileges and immunities to certain persons as deemed appropriate though they are not covered under the provisions of the two Conventions. This provision will allow Singapore to accommodate the requirements of International Organisations for their staff to enjoy certain diplomatic privileges and immunities while in Singapore on temporary assignments. Such a move will help promote Singapore as a diplomatic hub and international arbitration centre. In addition, the Minister for Foreign Affairs also has the prerogative to withdraw certain diplomatic privileges and immunities from a foreign mission on the basis of reciprocity. The principle of reciprocity is enshrined in Article 47 of the Vienna Convention on Diplomatic Relations and Article 72 of the Vienna Convention on Consular Relations, and is a universally recognised practice in international relations.

... Let me conclude by saying that the passing of the Bill will put in place the necessary legislation for Singapore's accession to the two Conventions. Our accession will be one further demonstration of Singapore as a committed and responsible member of the international community.

#### VIII. TRADE AND ENVIRONMENT

Controversy with Indonesia arose over a shipment of materials between private companies in Singapore and Batam when Indonesian authorities alleged that the materials were hazardous wastes. Both Indonesia and Singapore are parties to the *Basel Convention on the Control of Transboundary Movements of Hazardous Wastes*.<sup>29</sup>

Singapore refuted Indonesian allegations that the materials were hazardous under the meaning of the Convention and that any notification by Indonesia of a special national regulation against the specific waste was not given prior to its shipment. Nevertheless, the Singapore government suggested that the matter be settled amicably by reference to the Basel Convention Secretariat as mediator.

The facts of the incident were provided in an annex to the press release by the Ministry of Foreign Affairs<sup>30</sup>:

<sup>29</sup> Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal adopted by the Conference of the Plenipotentiaries on 22 March 1989, online: <<http://www.basel.int/text/cone-rev.pdf>>.

<sup>30</sup> Annex to "MFA Spokesman's Comments: Export of 'Organic Material' From Singapore to Batam, Indonesia", Singapore Government Press Release, 22 March 2005.

FACT SHEET ON EXPORT OF “ORGANIC MATERIAL” FROM SINGAPORE TO BATAM, INDONESIA

- 1 On 6 Sep 04, the Indonesian State Ministry of the Environment (KLH) wrote to the National Environment Agency (NEA) alleging that 1,149.4 tons of “organic material” originating from a Singapore company had been dumped in Batam. KLH claimed that tests conducted on the “organic material” showed that the material contained heavy metals, and hence is regarded as hazardous waste under the Indonesian laws.
- 2 The “organic material” was exported from Singapore to Batam on 28 Jul 04 by Asia Resource Enterprise Ltd, a company registered in the British Virgin Island and managed by ecoWise Holdings, a Singapore listed company. The “organic material” was imported by PT ASIA PACIFIC ECO LESTARI (PT APEL) to Batam. PT APEL had obtained approval from the relevant authorities in Batam to import the “organic material” for use as a plant media in Pulau Galang Baru, Batam.
- 3 Since then, there was an exchange of correspondence between KLH and NEA on the matter. Indonesian officials and NEA also met on 29 Oct 04 to discuss the facts of the case. At the meeting, Indonesia and Singapore agreed that while Indonesia classifies the “organic material” as a hazardous waste under Indonesian law, it is not a hazardous waste under Singapore law. The meeting also established from the facts of the case that, at the time of export (28 Jul 04), the “organic material” was not a hazardous waste under the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal. The key facts established were as follows:
  - (a) The “organic material” in question was not classified as a waste under Singapore laws; it was compost used as a soil conditioner and fertilizer. When the said material was exported to Batam on 28 Jul 04, Indonesia had not informed the Secretariat of the Basel Convention (SBC) and other State parties that it considered such “organic material” as hazardous waste that contained heavy metals exceeding concentration or toxicity limits.
  - (b) On 29 Jul 04, Indonesia notified SBC that it considered the material to be hazardous waste. However, Indonesia’s notification to the Secretariat did not include any information on the toxicity limits.
  - (c) On 17 Aug 04, SBC transmitted the Indonesian notification of 29 Jul 04 to all state parties, including Singapore. Singapore only received the notification from the SBC on 27 Aug 04.
- 4 Following the meeting, KLH wrote to NEA that the “organic material” was a hazardous waste under the Basel Convention, and requested Singapore to take back the “organic material”. KLH had, in a letter dated 10 Jan 05, informed NEA of its intention to invoke the Basel Convention to re-export the “organic material” back to Singapore by end Jan 05, without the need of consent from Singapore. (Note: On 26 Jan 05, ecoWise was copied a letter from KLH to PT APEL stating that the “organic material” was a hazardous waste and under the Basel Convention, should be returned to the country of origin by end Jan 05.)
- 5 On 17 Jan 05 NEA replied to KLH that as the “organic material” was not classified as a hazardous waste under the Basel Convention, the question of Indonesia invoking the Basel Convention to re-export the “organic material” back to Singapore did not arise. In the same letter, NEA had proposed to meet with KLH to discuss the matter further with a view to finding a mutually-acceptable solution.
- 6 On 18 Jan 05, SBC wrote to NEA offering to assist Indonesia and Singapore in arriving at a mutually acceptable solution to the matter. SBC’s letter stated that the offer was made “at the request of Indonesia”.

- 7 On 25 Jan 05, NEA replied to SBC accepting its offer and suggesting a meeting at a neutral venue, possibly at the Office of SBC in Geneva, and at a mutually convenient date between 31 Jan and 4 Feb 05. On 28 Jan 05, KLH wrote to SBC, in response to NEA's letter dated 25 Jan 05 to SBC, stating that Singapore's proposed dates (31 Jan to 4 Feb) for a meeting in Geneva was not suitable to the Indonesians.
- 8 On 28 Jan 05, KLH replied to NEA's letter dated 17 Jan 05. In its reply, it reiterated its position that since the "organic material" in question was classified as a hazardous waste under Indonesian laws, it should be regarded as a hazardous waste under the Basel Convention. It ignored the fact that Indonesia had only classified as hazardous waste after the material had been exported by Singapore.
- 9 On the same day, KLH wrote to SBC, copied to NEA, in response to NEA's letter dated 25 Jan 05 to SBC. In its letter, KLH informed SBC that before a mutually acceptable date could be set for the meeting in Geneva, it would invite SBC to visit Pulau Galang Baru, Batam to examine the sample of the "organic material".
- 10 On 2 Feb 05, NEA replied to KLH to reiterate that Indonesia's notification to SBC was on 29 Jul 04, a day after the export of the "organic material" to Batam on 28 Jul 04, and that Singapore received Indonesia's notification from SBC only on 27 Aug 04. Furthermore, Indonesia's notification to SBC was not complete as it did not contain any information on the toxicity limits. Hence, the "organic material" in question could not be regarded as a hazardous waste under the Basel Convention at the time of export. NEA added that a meeting with KLH and SBC in Geneva would be useful towards reaching a mutually acceptable solution.
- 11 On 3 Feb 05, NEA received SBC's reply to NEA's letter to SBC and KLH dated 25 Jan 05. The key points in SBC's letter are as follows:
  - (a) The SBC advised that it was not in a position to conduct an on-site visit at Batam, as requested by Indonesia. The Secretariat, however, said that if both Singapore and Indonesia could agree that a visit by an expert would assist in resolving the matter, the Secretariat could recommend an objective expert for the visit, which would be funded by both Singapore and Indonesia.
  - (b) If both parties agreed that an on-site visit should be undertaken, the SBC also proposed that they could begin discussion on the practical needs and terms of reference for such an expert visit as well as to set a date for a need to meet with SBC following the expert visit.
  - (c) If the parties decided that an on-site visit would not help to achieve a solution to this matter, the Secretariat suggested that further dialogue between the Parties could be useful. If the parties could agree to have such a dialogue, the Secretariat would be happy to offer its good offices to host the dialogue.
- 12 On 4 Feb 05, NEA responded to the SBC's letter of 2 Feb 05. In its letter, NEA indicated that it would be more useful for both Parties to present their version of the pertinent facts of the case before the SBC. NEA was therefore agreeable to SBC's suggestion for a dialogue with Indonesia, preferably in the SBC's office in Geneva, in order to identify the specific outcomes that a meeting hosted by SBC on this matter could achieve.
- 13 On 22 Feb 05, SBC replied to NEA's letter dated 4 Feb 05. SBC advised that before it could host a meeting for Singapore and Indonesia, both countries should hold further discussion to reach an agreement to identify the (i) specific outcome that could be achieved; and (ii) the date of the meeting to be hosted by the SBC.
- 14 On 28 Feb 05, KLH replied to SBC that as Singapore had "refused" to discuss the re-export of the organic material to Singapore, it would not be useful to have a meeting. However, KLH also stated that if SBC still felt that a meeting would be useful to help resolve the issue, Indonesia was willing to have a meeting at SBC's earliest convenience.

- 15 On 1 Mar 05, SBC wrote to NEA and KLH to invite Singapore and Indonesia to a meeting in SBC's offices in Geneva from 10-11 Mar 05. In its letter, SBC said that it had offered its good offices for the meeting at the request of Indonesia. SBC said that the purpose of the meeting was to discuss a practical way forward, with the aim of reaching an amicable resolution to the matter. In preparation for the meeting, SBC had asked both Parties for information to be provided to the meeting.
  - 16 On 3 Mar 05, NEA accepted SBC's invitation to meet in Geneva, and on 4 Mar 05, NEA proposed the draft agenda for the 10-11 Mar meeting and asked for confirmation of the meeting.
  - 17 On 8 Mar 05, Indonesia unilaterally announced that the "toxic waste" had been loaded onto trucks over the past two days, and would be re-exported back to Singapore. The Indonesian State Minister for the Environment Rachmat Witoelar was reported to be in Batam to witness the sending off of the material to Singapore.
  - 18 On the same day, NEA sought clarification on the Indonesian media report on Indonesia's plan to return the material to Singapore. NEA expressed surprise over this development given that a meeting under the SBC's auspices had already been arranged for 10-11 Mar 05. NEA stressed that any unilateral action by Indonesia to export the material to Singapore would be inappropriate. If such action was undertaken, Singapore would have no choice but to deny the entry into its territorial waters. NEA expressed the hope that the meeting at SBC would help solve the matter in an amicable manner.
  - 19 On 8 Mar 05, Minister for Environment & Water Resources Prof Yaacob Ibrahim and the Minister for Foreign Affairs George Yeo spoke to their respective Indonesian counterparts Rachmat Witoelar and Foreign Minister Hassan Wirajuda to inform them that since Singapore had accepted the SBC's offer of "good offices" made at Indonesia's request and the matter was presently before the SBC, Singapore could not agree to take back the material until all the facts were established, and the matter resolved in line with the Basel Convention.
  - 20 When KLH did not respond to the SBC's offer, the SBC wrote to both NEA and KLH on 9 Mar 05 to postpone the meeting to 23-24 Mar 05. NEA replied that it accepted the new dates for the meeting in Geneva on 23-24 Mar 05.
  - 21 Minister for Foreign Affairs George Yeo and Indonesian Foreign Minister Hassan Wirajuda met in Jakarta on 9 Mar 05 and agreed that both sides should seek an amicable and mutually acceptable solution under the framework of the Basel Convention.
  - 22 On 9 Mar 05, KLH replied to SBC that it could accept the meeting proposed by SBC on the following conditions:
    - (a) The meeting should not prejudice Indonesia's rights under the Basel Convention to take legitimate and necessary actions on the issue;
    - (b) The meeting should discuss the relevant information requested from SBC, and therefore, the relevant information should be provided before the meeting;
    - (c) KLH would extend its full cooperation to enable Singapore to take samples of the organic material from Batam for laboratory testing, as required under item 5 of SBC's letter dated 1 Mar 05.
- KLH had proposed that the date of the meeting be determined after both Parties completed their preparations of the information requested by SBC.
- 23 In its reply of 9 Mar 05, SBC informed KLH that Singapore had confirmed its attendance for the 23-24 Mar 05 meeting. SBC indicated it would continue to plan on the basis of the meeting taking place on 23-24 Mar 05. It also asked Indonesia for information on any development concerning the waste in question and their disposal.

- 24 On 9 Mar 05, SBC acknowledged NEA's reply and informed NEA of Indonesia's suggestion that the date be determined once both sides were ready to provide the information requested by SBC in its letter of 1 Mar 05. SBC said it would continue to plan on the basis of the meeting taking place on 23-24 Mar 05.
- 25 In its letter to SBC of 10 Mar 05, NEA agreed with Indonesia's proposal that both sides should make available the information requested by SBC before the meeting, and suggested the information be submitted on or before 16 Mar 05. NEA also agreed with SBC that both sides should submit the full reports of any laboratory testing that had been conducted. NEA also addressed Indonesia's suggestion (in its letter of 9 Mar 05) that Singapore obtain samples from the site, saying that this issue could be discussed at the meeting. NEA asked for SBC's early confirmation of 16 Mar as date of submission of the information, and 23-24 Mar 05 for the actual meeting.
- 26 SBC wrote to NEA and KLH separately on 14 Mar 05 on NEA's proposal that both sides submit the information requested SBC on the case by 16 Mar 05. It informed both sides that it was working on the basis that the 23-24 Mar 05 meeting would proceed as scheduled.
- 27 On 18 Mar 05, to help move forward the process of seeking an amicable solution under the auspices of the SBC. In its letter to SBC, NEA suggested engaging an independent expert to take samples of the organic material at both Batam and Singapore and carry out tests on these samples. NEA asked SBC to recommend an independent expert for both parties' consideration. NEA stated that it would pay for the cost of engaging the expert.
- 28 SBC replied on 18 Mar 05 agreeing to NEA's suggestion and agreed to identify an independent expert. In a similar letter to KLH, SBC informed the former of Singapore's offer. Separately, KLH wrote to SBC on 18 Mar 05 requesting that tests be done on the samples of the material in Batam before the meeting in Geneva.
- 29 Singapore welcomes the SBC's agreement to assist in identifying an independent expert for Singapore to engage to take samples of the organic material in Batam and Singapore to carry out the relevant tests. The report by an independent expert will establish the pertinent facts which will enable both parties to reach an amicable solution under the auspices of the Basel Secretariat when we meet in Geneva.

Tensions between the two countries escalated and peaked in a demonstration at the Singapore embassy. In March 2005, a spokesman for the Ministry of Foreign Affairs stated that<sup>31</sup>:

We are surprised to learn that a group of demonstrators had attacked the Singapore Embassy in Jakarta this morning. We are disappointed that this has happened when both the Indonesian and Singapore governments had agreed to refer the matter to the Secretariat of the Basel Convention, as had been requested by Indonesia.

This is a matter between the Indonesian government and a private company. Nevertheless, to help achieve an amicable outcome, Singapore had offered to engage an independent expert, mutually acceptable to both sides, to take samples of the material from Batam and Singapore to carry out tests to establish definitively the facts. The next step is for Singapore and Indonesia to meet in Geneva under the auspices of the Basel Secretariat. The meeting in Geneva will enable both Parties to explain their case, understand more fully the pertinent facts and how the relevant provisions of the Basel Convention should be interpreted and applied to this case.

An amicable settlement on the issue was reached between the neighbouring states, as recorded in a press release by the Basel Convention Secretariat, and jointly adopted by both

<sup>31</sup> "MFA Spokesman's Comments: Export of 'Organic Material' From Singapore to Batam, Indonesia", Singapore Government Press Release, 22 March 2005.

governments.<sup>32</sup> This did not find Singapore guilty of any contravention of the Convention or otherwise under any legal obligation to accept the return of the shipment. Instead, *inter alia*, the statement noted that, “In the interest of resolving this issue amicably and in the spirit of good neighbourliness, Singapore will allow the return of the material in question from Indonesia to Singapore.”:

- 1 The Delegation of the Republic of Indonesia and the Delegation of the Republic of Singapore met in a friendly session at the Office of the Secretariat of the Basel Convention (SBC) in Geneva, on 10-11 May 2005 to discuss a mutually acceptable resolution relating to the current dispute over the export of “organic material” or “waste” from Singapore to Indonesia. The SBC had kindly offered its good offices to Singapore and Indonesia to meet to reach an amicable resolution of the issue.
- 2 Both delegations agreed that the matter should be resolved amicably in the interest of friendly relations between the two countries. As States Parties to the Basel Convention, they recognised the importance of settling their differences in a peaceful manner and in keeping with Article 20 of the Convention.
- 3 At this meeting, Indonesia and Singapore presented and exchanged their views on the facts of the case. Both delegations further recognised that the current dispute relates to the interpretation of Article 3 of the Convention on domestic definitions of hazardous waste as well as Article 13 on the transmission of information on such domestic definitions to all States Parties to the Basel Convention through the SBC.
- 4 Based on the exchange of views between the two delegations, Singapore and Indonesia agreed as follows:
  - (a) Both delegations noted the collection of samples in Indonesia and Singapore for testing as well as the tests results which have been undertaken by the independent expert recommended by the SBC.
  - (b) In view of Article 3 and Article 13 of the Basel Convention regarding domestic definition of hazardous wastes, the Delegation of the Republic of Singapore expressed its view that export of the material in question from Singapore to Indonesia was not classified as hazardous waste according to Singapore’s domestic laws.
  - (c) On the other hand, pursuant to Indonesia’s domestic laws, the Delegation of the Republic of Indonesia considered that the export of the material in question from Singapore to Indonesia was hazardous waste prohibited under its domestic laws.
  - (d) As part of Indonesia’s obligations as a State Party to the Basel Convention, the Indonesian Ministry of Environment (KLH) transmitted to the SBC a list of hazardous wastes contained in government regulation 85/1999 on 29 July 2004. This notification was sent by the SBC and received by Singapore on 27 Aug 2004. Meanwhile, the material in question was exported from Singapore on 27 July 2004 and arrived in Batam on 28 July 2004.
  - (e) As State Parties to the Basel Convention both Indonesia and Singapore are determined to comply with all its provisions. Singapore has acted in accordance with its domestic law, and the export of material in question from Singapore to Indonesia on 27 July 2004 did not breach the Basel Convention, and the shipment of material in question from Indonesia to Singapore will not be regarded as a re-export under articles 8 and 9 of the Basel Convention.
- 5 In the interest of resolving this issue amicably and in the spirit of good neighbourliness, Singapore will allow the return of the material in question from Indonesia to

<sup>32</sup> Press Release of the Secretariat of the Basel Convention Press Statement jointly adopted by the Republic of Indonesia and the Republic of Singapore, 12 May 2005, online: <[http://app.mfa.gov.sg/internet/press/view\\_press\\_print.asp?post\\_id=1335](http://app.mfa.gov.sg/internet/press/view_press_print.asp?post_id=1335)>.

Singapore. In this context, the current prohibition imposed by Singapore on the return of the material in question will be lifted immediately after the release of this joint press statement. Both parties will, within a week, initiate the process to ensure the speedy return of the material in question to Singapore.

- 6 In order to prevent any future similar incidents, both Singapore and Indonesia agreed to utilise the existing technical forum under the Indonesia-Singapore Joint Working Group on the Environment (ISWG).
- 7 The Executive Secretary of the Basel Convention congratulated the two Parties on the successful resolution of this matter, and commended them for the fraternal and cooperative manner in which this had been achieved.

#### IX. CONCLUSION AND POSTSCRIPT

That, then, is a brief survey of the major policy statements made during the period under review. By way of a Postscript, Myanmar chose to forego the Chair of ASEAN as this Year Book went to print. A review of the statements made in relation to that matter will therefore have to await the next issue.

