State Practice of Asian Countries in International Law

Singapore

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TREATY – RATIFICATION OF TREATIES – SINGAPORE AND INDONESIA

The Ministers of Foreign Affairs of Singapore and Indonesia exchanged the Instruments of Ratification for the Treaty Between the Republic of Singapore and the Republic of Indonesia Relating to the Delimitation of the Territorial Seas in the Eastern Part of the Strait of Singapore on 10 February 2017. The Exchange of Instruments of Ratification brings the treaty into force.

TREATY – RATIFICATION OF TREATIES – SINGAPORE AND AUSTRALIA

Singapore and Australia marked a milestone in bilateral economic relations with the ratification of the upgraded Singapore-Australia Free Trade Agreement on 1 December 2017. The upgraded Free Trade Agreement will enter into force following ratification. The key benefits include updated trade rules in goods, increased opportunities for businesses to bid for Government Procurement contracts, enhanced access to each other's services sectors and greater facilitation for investments.

TREATY – RATIFICATION OF TREATIES – SINGAPORE AND TURKEY

Turkey and Singapore ratified the Turkey-Singapore Free Trade Agreement on 21 August 2017. The Free Trade Agreement will enter into force on 1 October 2017. This Free Trade Agreement is Turkey's first comprehensive free trade agreement in a single undertaking. It includes Turkey's first treaty commitments

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in Government Procurement and newer elements such as intellectual property rights, e-commerce, competition and transparency. The Free Trade Agreement will reduce barriers to trade and investment between Turkey and Singapore, enhance access to services sectors and procurement markets, as well as promote greater connectivity between businesses and people.

TREATY – REGISTRATION OF TREATIES

At a ceremony at the Office of the United Nations Undersecretary-General of Legal Affairs Miguel de Serpa Soares on 25 September 2017, Singapore and Indonesia jointly submitted for registration the Treaty Between the Republic of Singapore and the Republic of Indonesia Relating to the Delimitation of the Territorial Seas in the Eastern Part of the Strait of Singapore, which was signed in Singapore on 3 September 2014. This is in accordance with Article 102 of the Charter of the United Nations. The joint submission was held in conjunction with the commemoration of the 50th anniversary of the establishment of diplomatic relations between Singapore and Indonesia. The treaty is the third treaty relating to the delimitation of the territorial sea boundary between the two countries.

DISPUTE RESOLUTION – MEMORANDUM OF UNDERSTANDING – INTERNATIONAL COURT OF ARBITRATION OF THE INTERNATIONAL CHAMBER OF COMMERCE

On 28 June 2017, the Singapore Ministry of Law and the International Court of Arbitration of the International Chamber of Commerce announced that the ICC Court will set up a case management office in Singapore aimed at boosting arbitration and serving the dispute resolution needs of businesses around the world. The ICC Court is the first international arbitral institution to set up a physical case management office and team in Singapore.

DISPUTE RESOLUTION – HOST COUNTRY AGREEMENT – PERMANENT COURT OF ARBITRATION

On 25 July 2017, the Permanent Court of Arbitration (PCA) and the Singapore Ministry of Law signed a Host Country Agreement for the setting up of a PCA office in Singapore. The Singapore PCA office provides a Singapore base from

which the PCA can administer the growing number of PCA cases held in Singapore and Asia.

TREATY – MULTILATERAL COMPETENT AUTHORITY AGREEMENTS – TAX

Singapore signed the Multilateral Competent Authority Agreements on the Automatic Exchange of Financial Account Information under the Common Reporting Standard, and the Exchange of Country-by-Country Reports on 21 June 2017. The signing of both agreements reaffirms Singapore's commitment to the international standards on tax cooperation.

TREATY – MULTILATERAL CONVENTION TO IMPLEMENT TAX TREATY RELATED MEASURES TO PREVENT BASE EROSION AND PROFIT SHIFTING

Singapore signed the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting ("Multilateral Instrument") on 7 June 2017, together with over 60 other jurisdictions. The Multilateral Instrument seeks to facilitate the implementation of tax-treaty related measures to counter base erosion and profit shifting. Signatories to the Multilateral Instrument can efficiently update their Avoidance of Double Taxation Agreements ("DTAs") to incorporate the measures, without the need to re-negotiate each DTA. These measures include base erosion and profit shifting minimum standards on preventing treaty abuse and enhancing dispute resolution.

REVIEW OF INVESTOR-STATE AWARDS IN THE SINGAPORE COURTS – INVESTMENT TREATY LAW

Kingdom of Lesotho v Swissbourn Diamond Mines (Pty) Limited and others ("Lesotho v Swissbourn") [2017] SGHC 195 was brought before the Singapore High Court (SGHC), in which the plaintiff, the Kingdom of Lesotho (Lesotho), successfully sought to set aside the final award issued against it by the arbitral tribunal (Tribunal) in an ad hoc arbitration administered by the Permanent Court of Arbitration (PCA) and heard in Singapore. This case is the second time an investment treaty arbitration award has been brought to the Singapore

courts for review. The decision signals the Singapore courts' willingness to undertake a critical review of investor-state awards where the seat of arbitration is Singapore. In this case, the SGHC undertook an extensive *de novo* review of the arbitral tribunal's jurisdictional decisions, and the review of all the objections raised and authorities cited by the parties will provide valuable guidance for future cases in Singapore.

In examining Lesotho's objections to jurisdiction relating to the arbitral award, the SGHC found the following in summary: (a) The Tribunal was correct in finding jurisdiction *ratione temporis*; (b) The Tribunal was incorrect in finding jurisdiction *ratione materiae*; (c) The SGHC agreed with the Tribunal's decision on jurisdiction *ratione personae* but disagreed with the reasoning; and (d) The investors had not exhausted local remedies as required by the relevant treaty. Accordingly, the SGHC found in favour of the Kingdom of Lesotho and set aside the award rendered by the Tribunal on the basis that it had no jurisdiction.

Human Rights – Statements – 68th Session of UN CEDAW

Singapore presented opening and closing statements at the 68th Session of the UN CEDAW Committee in October 2017. Singapore affirmed its full commitment to the protection and promotion of human rights of its citizens including women. Singapore's representative highlighted the introduction of new laws like the Prevention of Human Trafficking Act and the Protection from Harassment Act, as well as the enhancement of several laws like the Employment of Foreign Manpower Act and the Women's Charter. Singapore also assured the CEDAW Committee that it recognized that enhancing the status of women was a continuous process and remained committed to this effort.

Following the oral statements made, the UN CEDAW Committee acknowledged Singapore's efforts in promoting gender equality and protecting the rights of women, and continued to recommend that Singapore include in its laws a prohibition of all forms of discrimination against women. In reply, the Singapore government affirmed that it would consider the Committee's recommendations when reviewing its policies to address gaps in Singapore society and continue to engage the relevant stakeholders, including civil society, to facilitate women's progress in Singapore.