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Please refer to your letter of 11 February 2008 addressed to Prime Minister Lee Hsien Loong and to President S R Nathan concerning the draft report "Singapore: Rule of Law Issues of Concern" that was prepared by the International Bar Association Human Rights Institute (IBAHRI).

2 We note that the IBAHRI's objective for the report is to "commence and facilitate dialogue with the Singapore Government and the Singapore Law Society". In this regard, we welcome the IBAHRI's decision to seek clarification on the accuracy of report prior to its publication.

3 The Singapore Government believes that issues of the Rule of Law cannot be perceived in the abstract. Instead, they must be looked at within a certain socio-political and historical context. This includes the prevailing political and legal institutional arrangements for the enactment of laws, and the functionality of an electoral system in which the people can elect their government at regular intervals.

4 Singapore, like the vast majority of countries, subscribes to the Universal Declaration of Human Rights (UDHR) but we understand universality to apply to a core of basic human rights. Beyond this core, there is no universal agreement. Human rights are interpreted and implemented according to the specific histories, cultures and circumstances of particular countries. Every society must decide and find the appropriate balance given its historical, social and economic context. The Rule of Law is necessary in order that societies strike this balance to achieve good governance.

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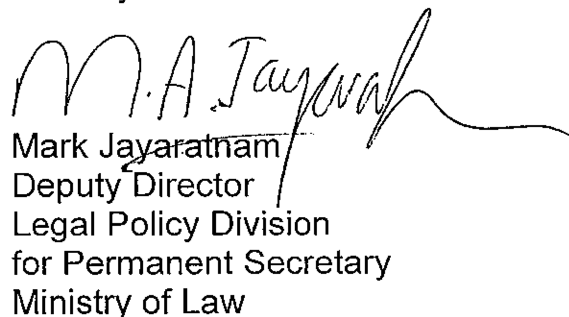
5 The draft report has stated that Singapore champions an "Asian values" alternative to human rights concepts and principles dominated by Western perceptions. This is incorrect. The Singapore Government has never asserted the superiority of any particular set of values over others. Neither do we believe that cultural differences should be allowed to justify violations of basic human rights. When we have discussed Asian values, we were only addressing issues such as the responsibility of the individual to the society and the role of the family, as they are practised in East Asia, especially in countries where there are strong Confucianist traditions. We are not advocating that all countries should adopt these values but rather, that the differences in countries' values and perceptions on such matters should be respected.

6 It is best to conceive of rights as those norms and values that enable societies to progress and individuals to have opportunities to develop their potential to the best of their abilities. In Singapore, our growth and prosperity over the years have, through judicious planning, careful management and sound investments, translated into progress in Singaporeans' well-being in terms of life expectancy, adult literacy rate, prevalence of criminality, and access to clean water, sanitation, and health services. The Singapore Government remains committed to ensuring a high degree of peace, freedom, prosperity and personal security for all Singaporeans. The Government also pays special attention to the protection and welfare of vulnerable or special groups through such institutions as the National Trades Union Congress (for workers' rights), the Presidential Council for Minority Rights, and the Ministry of Community Development, Youth and Sports which helps look after women and children's rights.

7 The Singapore Government therefore takes a serious view towards any allegation of abuses of human rights in Singapore. There are some significant factual inaccuracies in the draft report which we have indicated in the Annex attached. We would request the IBAHRI to take into account our views and the facts on the ground when reviewing its report.

Thank you.



Mark Jayaratnam
Deputy Director
Legal Policy Division
for Permanent Secretary
Ministry of Law

ANNEX

SINGAPORE'S RESPONSE TO THE DRAFT REPORT "SINGAPORE : RULE OF LAW ISSUES OF CONCERN"

Part C of the Report: Singapore's International Rankings

1. With respect to international rankings, the draft Report has acknowledged that Singapore ranks highly in international recognition of economic competitiveness, liberal trade policies, property rights, legal efficiency and business standards. These are highly significant achievements, which the draft Report has glossed over. The high rankings that Singapore has received for property rights and legal efficiency clearly show that the Singapore Government has strongly upheld the rule of law. Significantly the draft Report also ignores the very high rankings that Singapore's judiciary and legal system have garnered. For example, the Political and Economic Risk Consultancy (PERC) Asian Intelligence Report 2006 states:

> **"Within Asia Hong Kong and Singapore are the only two systems with judiciaries that rate on a par with those in developed Western societies...**
>
> **Hong Kong and Singapore stand out favorably because they demonstrate three essential elements or principles of judicial independence. First, the courts and individual judges within these systems are publicly perceived to be impartial in their decisions. Second, judicial decisions are accepted by the contesting parties and the larger public. Third, judges are perceived to be free from undue interference from other branches of government.**
>
> **... the judiciaries in both Hong Kong and Singapore demonstrate great consistency in the way they interpret and enforce the law. This gives people and organizations using these systems a degree of confidence that is lacking in most other Asian countries.**
>
> **From their [managers of multinationals and banks] perspective, Singapore's judicial system is fair and efficient. They feel comfortable with the consistency of its rulings and their ability to fall back on the system to settle disputes. This confidence is reflected in the good score Singapore consistently gets in our surveys of the police and the judiciary."**

2. In PERC's comparative risk report released in 2007, Singapore scored well again in the ranking for quality of the judicial and legal system.

Part D of the Report: Brief Political History

3. The Report is factually inaccurate in asserting that Mr Goh Chok Tong introduced the largely ceremonial role of President. The office of the President dates back to the independence of Singapore in 1965. Subsequent constitutional amendments transformed the ceremonial Presidency into an elected one with limited executive powers. It is also factually inaccurate to state that the current Prime Minister "joined" the President. Both assumed their respective positions through separate constitutional processes.

4. The Report mentions that the Presidential Elections Committee disqualified 3 other would-be applicants in 2005. By not giving the context of the decision, the impression created is that the 3 candidates were disqualified for improper or invalid reasons.

5. Under the Singapore Constitution, candidates for the presidency must have executive and financial experience in the public sector, a statutory board or a top company for at least three years, as the President of Singapore plays an important role in safeguarding the financial reserves of Singapore. The Committee announced publicly its reasons for rejecting the three applications. The Committee was of the view that the 3 applicants did not satisfy the requirements set out in the Constitution as they had not held a similar or comparable position of seniority and responsibility in any other organisation or department of equivalent size or complexity in the public or private sector, which was required for the office of the Presidency. In other words they did not meet the qualifications set out in the Constitution.

Part D (sic – should be Part E) of the Report: Current Rule of Law Issues

6. It is somewhat odd that a Report which purports to inform readers of "current" rule of law issues affecting Singapore should raise events which are not current and several of which happened nearly a quarter of a century ago.

Section 1 : Freedom of expression / Singapore's obligations under international law

7. Singapore has no quarrel with the provisions of the Universal Declaration of Human Rights (UDHR) and the Convention on the Rights

of the Child (CRC) which have been cited. On the contrary, Singapore fully subscribes to the UDHR principles and takes her obligations under the CRC seriously. It should be noted that neither instrument considers the freedom of expression to be an unqualified right. On the contrary, both instruments recognise that the right to freedom of expression may be curtailed in order to secure respect for the rights of others, to protect public order, morals etc.

Defamation laws

8. Article 45 of the Singapore Constitution, which has been singled out in the IBA report as having "the potential to be used to prevent political opponents from standing for office for significant periods of time", is not exceptional. The Commonwealth of Australia Constitution, for example, also contains provisions which disqualify from membership of the House of representatives any person who is (*inter alia*) an undischarged bankrupt or insolvent or who has been convicted and is under sentence, or subject to be sentenced, for any office punishable under the law of the Commonwealth or of a State by imprisonment for one year or longer: see section 44.

9. As to the allegation that the provisions in article 45 of the Singapore Constitution have "the potential to be used to prevent political opponents from standing for office for significant periods of time", this is an allegation as to the possible motivations of individuals who choose to bring defamation suits. What matters is the substantive content of the laws upon which such suits are adjudicated and the due process accorded to all parties. As to the substantive content of our defamation laws, there is again nothing exceptional here. The freedom of speech and expression provided in Article 14 of our Constitution is not absolute; and this in itself is not exceptional. There is no absolute or unfettered right to malign the reputation of others with impunity. It is true that different jurisdictions draw the line differently in determining the balance between the right of free speech on the one hand and the right to protect one's reputation on the other. In American caselaw, for example, it has been held that criticism of official conduct is privileged unless actual malice is proved, because of the provisions of the First and the Fourteenth Amendments to the United States Constitution: see *New York Times v Sullivan* 376 U.S. 254 (USSC1964). This is not the position in the United Kingdom: the effect of the House of Lords' decision in *Derbyshire County Council v Times Newspapers* [1993] AC 534, for example, is clearly to uphold the right of an individual politician or member of a governmental body to sue if defamatory remarks can be interpreted as referring to him or her. The Singapore courts are not alone, therefore, in holding that no special privilege attaches to criticism of politicians; and that politicians, like any other citizens, do not forfeit

the protection of their reputations merely because they have entered the political arena and assumed high office._Everyone, including politicians, must take the legal consequences of their words. It is not only Government leaders who have sued in defamation. Opposition politicians have also sued Members of Parliament of the political party in power for defamation and obtained damages.

10. It also bears pointing out that, when anyone sues in defamation, he or she is putting his or her own reputation on the line. It is open to the defendant to prove that what is said is true. A plaintiff who sues opens his or her actions to public scrutiny and rigorous cross-examination in court. Plaintiffs, including Government leaders, have been rigorously cross examined in court in defamation cases.

11. The law of defamation is sensitive and nuanced enough to differentiate fair criticisms on the one hand, innocent, unintended or careless remarks on the other hand, and malicious falsehoods in the third category. The law also ensures that fair and justified comments, even if defamatory, will not necessarily get its maker into trouble.

12. Unlike other countries where a jury may decide on the damages and the damages can be inordinately large and somewhat inconsistent, in Singapore, judges decide on the damages based on precedents.

<u>J B Jeyaretnam</u>

13. With respect to Mr Jeyaretnam's criminal conviction, that the draft Report has alluded to on page 11, it needs to be pointed out that the subject matter of the appeal brought before the Privy Council concerned disciplinary proceedings brought by the Law Society of Singapore against Mr Jeyaretnam and not the validity of his criminal convictions in separate proceedings. The public prosecutor who secured those convictions was not represented at the Privy Council. As regards the dicta of the Privy Council cited in the draft Report, it should be noted that in 1991, the English High Court judge Justice Brooke (as he then was) found the Privy Council "was not itself seized with an appeal against the criminal convictions [against Mr Jeyaretnam] and had no jurisdiction at all in respect of them." That judge also described the Privy Council's views as "most unusual," noting that "these opinions were expressed in proceedings to which the prosecuting authority in Singapore, although aware of their existence, was not a party." Justice Brooke concluded that "the decisions of the Singapore High Court judges who heard [Mr Jeyaretnam's] appeals are final and conclusive, so far as his guilt or innocence before the courts of Singapore is concerned." The judge said Mr Jeyaretnam "therefore remains duly convicted by the courts of competent jurisdiction in his home country."

14. Mr Jeyaretnam was sued not because of a government policy to silence an opposition politician. The suits for defamation were successful because he was found, through an impartial judicial process, to have defamed others. It was in one of these cases that Mr Jeyaretnam failed to pay the damages awarded against him, whereupon the plaintiffs (most of whom were not politicians) filed a bankruptcy petition and had him declared a bankrupt in January 2001.

Dr Chee Soon Juan

15. With respect to Dr Chee, the allegation that the Singapore government has used defamation laws to stifle an opposition politician is equally unfounded. Dr Chee has not made headway in Singapore's political scene because he was defeated in free and fair elections in 1992, 1997 and 2001. In the 2001 general elections, when Dr Chee made the defamatory remarks which the draft Report mentions on page 12, he and his team polled 20% of the votes, the lowest among all *opposition* candidates in the group representation constituencies.

16. Dr Chee has, in between elections, repeatedly flouted Singapore's laws on public order and insisted on going to jail instead of paying a fine to build up his dissident image. As far as his conviction in 2006 under section 19(1)(a) of the Public Entertainment and Meetings Act is concerned, he was in fact sentenced to a fine of $5,000. It was ordered that the default jail term if the fine were unpaid would be 5 weeks. Dr Chee did not pay the fine and served the default jail term instead. With regard to Dr Chee's rally during the World Bank/IMF meetings, the IBA may wish to check the veracity of its sources. The IMF/World Bank Annual meetings (S2006) took place in Sep 2006 and not Feb 2006 as claimed in the report. Singapore's policy prohibiting outdoor demonstrations is publicly known and applies to all, regardless of whether the applicants are from government bodies, political parties or other organisations. Police had announced and reiterated that outdoor demonstrations and processions would not be allowed during S2006. That Dr Chee flouted the law this time and at other times suggests that he may consider himself above the rule of law, when the law in question is one that he does not agree with.

17. The draft Report itself acknowledges that Dr Chee made a strong statement against the Government at the IBA Rule of Law day. The draft Report states that the resulting debate was vigorous and no action was taken by those who spoke out. This is at variance with the criticisms voiced in the draft Report.

Freedom of the press

18. As to the allegation that defamation suits have "caused the media to remain silent for fear of extensive and expensive suits", we would reiterate the points made earlier about the content of substantive defamation law in Singapore; in particular, the fact that politicians have the same right as everyone else to protect their reputation; and the fact that there is nothing exceptional about defamation law in Singapore.

19. The allegation that there are no specific provisions for penalties for a breach of the Internet Code of Practice issued by the Media Development Authority is inaccurate. The MDA's authority to issue such a code of practice is derived from section 17 of the Media Development of Authority Act. Section 24 of the Act stipulates that the MDA may investigate if it has reasonable grounds to suspect that any provisions of its code of practice has been infringed. If, after an investigation, the MDA concludes that there has been an infringement and it proposes to make a direction under section 26, it is obliged by section 25 of the Act to give written notice to the party concerned and to provide the party with an opportunity to make representations. Section 26 sets out in detail the directions which the MDA may make, having considered the party's representations. These directions range from directions to the party to cease the conduct in question, to the imposition of financial penalties; and it is also clearly provided in section 26 that failure to comply with the directions so issued amounts to an offence.

20. As to the application of defamation laws to the Internet, there is also nothing exceptional about the Singapore position. In the United Kingdom, for example, it has been held that an Internet service provider is a publisher of material which it "hosts", where it is aware that the material is defamatory; and the court there was also of the view that the same is true even if there was no such knowledge: *Godfrey v Demon Internet Ltd* [2001] QB 201. The Defamation Act 1996 of the United Kingdom clearly envisages the application of defamation law to the Internet: see, for example, the definitions in section 1(3) of the Act.

21. The Press Freedom Index drawn up by *Reporters Sans Frontieres* or RSF is based largely on a particular media model which favours the advocacy and adversarial role of the press. We have a different media model in Singapore - that of a free and responsible press whose role is to report news accurately and objectively.

22. Your report claims that because of the Government's power to appoint, dismiss, approve and remove staff, directors and shareholders of Singapore Press Holdings (SPH), the media's coverage of news reflects only Government thought. This is not true.

23. The intent of the Newspaper and Printing Presses Act (NPPA) is to protect public interest, prevent manipulation by foreign elements to glorify offensive viewpoints and to prevent newspapers from being used as instruments of subversion.

24. Whilst the Act empowers the Minister to object to existing control of the newspaper company, this must be premised upon conditions stated in the Act. The Government does not get involved in the day-to-day running of newspapers or dictate the presentation of news. SPH and all other media companies in Singapore operate their companies as commercial enterprises.

25. The robust debates reflecting diverse public opinion in our newspapers on recent issues, such as the decision to allow Integrated Resorts with Casinos and Means Testing for Healthcare subsidies, as well as objective coverage of the General Elections are proof that diverse values and opinions are reflected, not just the Government's. Diverse views of the public are also evident in print and online forum letters and on our radio talk shows.

26. Contrary to RSF's press freedom ranking of Singapore, our globalised economy thrives on a free flow of information. In 2007, Transparency International ranked Singapore 4th in an international survey, above the USA. Today, Singaporeans are well informed, having ready access to information from both local and foreign media[1]. The foreign media are free to report on developments in Singapore. The only condition – which is only fair – being that Government reserves the right of reply to distorted and tendentious reports.

27. In addition, the 17 December 2007 report by Cynthia English entitled "Quality and Integrity of World's Media Questioned" reported that the 2005 and 2006 Gallup survey results showed that 7 in 10 citizens expressed confidence in Singapore's media, and confidence (69%) in national media is highest in Singapore amongst the developed countries in Asia. This is as compared to the median of 47% for countries whose press Freedom House considered "free".

28. Hence, we disagree with RSF's press freedom ranking of Singapore.

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[1] Singapore has 190 correspondents from 72 foreign media organisations and 15 satellite broadcasters based here. Singaporeans also have access to a 24-hour BBC World Service, CNN, CNBC and other foreign broadcasts and over 5,500 foreign publications. In addition, with household broadband penetration of over 75%, Singapore is one of the most connected countries in the world.

29. What is important to Singapore and Singaporeans, in our development as a cosmopolitan global city, are fundamentals such as good governance, a safe environment, our performance as a cohesive and resilient society, and our ability to respond effectively to challenges and connect with the world as part of a globalised economy. Our media have been sensitive to Singapore's national and community interests, enabling contribution to nation-building, thereby strengthening the resolve and resilience of Singaporeans. There is no reason why Singapore should unthinkingly adopt a model favoured by some other countries which have their own socio-political circumstances.

30. There are ample avenues (in addition to newspapers) where individuals, including political parties and their supporters, can express their views publicly.

31. Anyone can set up a website, including political ones, on the Internet. The Media Development Authority (MDA) regulates the Internet with a light-touch Class Licence Framework, under which Internet Service Providers (ISPs) and Internet Content Providers (ICPs) are automatically licensed and they can start their websites or business without seeking prior approval from MDA. Registration is required only when a website is primarily set up to promote political or religious causes. Registration does not disallow the promotion of political or religious causes but merely serves to emphasise the need for content providers to be responsible and accountable for what they say. This is important, given the multi-racial, multi-religious nature of our society.

32. Registration does not come with any additional restrictions or conditions. Registrants are subject to the same set of Class Licence conditions and Internet Code of Practice as any other non-registered ICP. In addition ISPs are not required to monitor the Internet or their users' Internet activities.

33. The Internet Code of Practice, in particular Clause 4 of the Code, gives broad markers of what Singapore society regards as offensive and objectionable, and what content is prohibited under the Code, because it is impossible to define every instance of offensive material. For enforcement, the context in which any allegedly offensive material is found will be taken into consideration. MDA depends a lot on ordinary members of the public to inform it of sites which they find objectionable.

34. When the content breaches the Internet Code of Practice, the content provider will be given a chance to rectify the breach before any action is initiated. Depending on the severity of the breach, the penalties could include a fine or suspension of the Class Licence.

35. In the 12 years that the Class Licence has been in place, only a very small handful of ICPs have been asked to register with MDA as political websites. Sintercom was asked to register with the then-SBA (Singapore Broadcasting Authority) because it was deemed to operate a website promoting political causes. There were no restrictions placed on Sintercom over what they could post or discuss. The other websites asked to register included those operated by political parties in Singapore and the Think Centre, which is registered as a political society in Singapore. Except for Sintercom, none of these have chosen to cease operations and they have not been restricted from expressing their views.

36. Any Internet user or observer who has been in Singapore would find no lack of local websites carrying on a lively debate on a wide range issues relating to Singapore. The Class Licence scheme has encouraged freedom of expression of views on any subject matter in a responsible manner. The MDA has not taken legal action against any ICP registered with the MDA under the Class Licence.

37. To conclude, Internet websites are highly accessible in Singapore. The Government has limited public access to a token 100 websites as a symbolic statement of our societal values. Sites blocked focused on pornographic, illegal drugs and fanatical religious material. The latest OpenNet Initiative (ONI) survey done in 2007 affirms that Singapore blocked only 100 websites, primarily for symbolic purposes. This is compared to South Korean's 120,000 blocked websites and Thailand's 34,000 sites.

Section 2 of the draft Report – the independence of the Judiciary

38. The IBA should note that magistrates and district judges are not members of the executive. Magistrates and district judges are judicial officers, who take an oath of office when they are sworn in. They are not accountable to the Executive but only to the Legal Service Commission, which is headed by the Chief Justice and the Attorney-General. The Chief Justice, Attorney-General and Supreme Court judges enjoy security of tenure. The rotation of magistrates and district judges to other positions in the Legal Service, which is regularly undertaken for their career development, is determined by the Chief Justice and the Legal Service Commission, not the Executive.

39. With respect to Judge Michael Khoo, the draft Report ignores the fact that a Commission of Inquiry, chaired by a High Court Judge, exhaustively investigated the allegations of executive interference in the transfer of Mr Michael Khoo. The Commission's key finding was that

there was no truth to Mr Jeyaretnam's allegations of Executive interference in the Subordinate Courts. The Commission also found that Mr Jeyaretnam clearly never had the intention to give evidence, as he did not have the evidence to substantiate his allegations of executive interference in the Subordinate Courts. Lastly, the Commission found that there was no doubt that at no time had any member of the Executive interfered with the functions of the Chief Justice and the Attorney-General and that there was nothing improper in the transfer of Mr Khoo. The drafters of the IBA's draft Report should have studied the Commission's report and the Parliamentary debates on the Commission's Report. Footnotes 54 and 55 of the draft Report only cite secondary sources of dubious validity, and not any primary sources such as the Commission's Report and the Singapore Parliamentary Debates. We are concerned that sweeping and baseless allegations have been made in the draft Report, on the basis of these sources.

Section 3 – Rights of Assembly

40. The IBA report makes a point that Singaporeans are limited in their right to assemble on the grounds of "security, public order or morality". The report also states that the "Authorities reportedly refuse to grant permits regularly".

41. These are Constitutional restrictions to ensure that assemblies do not result in acts against the security of the nation, or cause damage to persons or property. Experiences in other countries have shown that demonstrations can often spiral out of control, resulting in mob violence. In Singapore, the 1950 Maria Hertogh riots and the 1964 race riots both started as peaceful assemblies but ended up with 54 dead, 736 injured, and significant damage to property. The two riots also touched on topics of race and religion. These concerns remain relevant today. The UDHR and many other international instruments accept that freedom of expression is not an absolute right, but rather there can be constraints for meeting the requirements of "morality, public order and the general welfare". Similarly, rather than being a "challenge" to the constitutionally guaranteed right of assembly, laws such as Public Entertainments and Meetings Act (PEMA) concretise what is expressed in our Constitution.

42. The report fails to indicate that Police has also approved permit applications regularly. We are unclear as to whether this omission is intended to support the view that there is a complete denial of the right of assembly in Singapore.

43. We strongly object to the assertion that the PEMA, or any law, is often used to imprison citizens who "attempt to voice their opinions or criticism of the government's handling of social and political issues" and

the implicit suggestion that "government-backed and supported organisations" are given special treatment. Our laws, which are formulated and agreed to Parliament, apply equally to all. Any criminal charges brought against individuals under the PEMA or any other law have to go through the due process of investigations and court.

44. There are many lawful means for Singaporeans to express their views and they have done so freely, be it through forums and meetings, internet discussions, letters to the press etc. Many Singaporeans regularly have expressed their opinions about many issues including Government through these lawful avenues.

45. The Government continually reviews its policies covering permissible methods and forms of expression. In 2000, we created the Speakers' Corner as an outdoor venue for political speeches. In 2004, we liberalised its use to include performances and exhibitions. In addition, we exempted all indoor public talks from the licensing requirements under the PEMA, so long as the organizers and speakers are Singapore citizens. The only content restriction to all these is that the speeches must not touch on race or religion. Singapore is presently reviewing how we can further liberalise the use of Speaker's Corner as an outdoor venue for more political activities including demonstrations.

46. With respect to the cases of Mdm Ng and Mdm Cheng which IBA cited, they were convicted by the courts for (among other charges) participating in an assembly on 23 February 2003, in the vicinity of the Bridge at Esplanade Park, Connaught Drive, Singapore. This was an offence punishable under Rule 5 of the Miscellaneous Offences (Public Order and Nuisance) (Assemblies and Processions) Rules read with Section 5(1) of the Miscellaneous Offences (Public Order and Nuisance) Act, Chapter 184, and not the PEMA, as stated in IBA's report. As reported in court, on 23 February 2003, both Mdm Ng and Mdm Cheng were seen to be distributing Falungong-related flyers, together with five other Falungong members were close by them, to members of the public. Mdm Ng was also found to be in possession of six uncertified VCDs on Falungong activities on this occasion. Prior to this, Mdm Ng and Mdm Cheng had also broken the law on several occasions.

Section 4 – Detention without Trial

47. The Internal Security Act (ISA) provides for preventive detention of persons whose activities threaten the internal security of Singapore. It has been a critical legal instrument of last resort used to counter security threats such as racial and religious extremism, espionage and terrorism. Whenever the circumstances make it practicable, the Government would prefer to prosecute an offender in court. However,

this is not always possible, especially when intelligence modus operandi or issues affecting national security are involved. The ISA has allowed the Government to investigate and neutralise threats in situations where an open court trial would have jeopardised investigations and on-going operations, inflamed racial/religious feelings or seriously undermined bilateral relations.

48. The use of preventive detention is governed by law. The Government does not exercise arbitrary powers and has always acted within the framework of the Constitution of Singapore and the ISA in this. Preventive detention is also subject to important checks and balances provided under the ISA. A detainee must be informed in writing of the grounds of his detention and allegations of fact on which the Order of Detention (OD) is based. The detainee has the right to make representations against the OD to an Advisory Board (AB) and is free to engage a lawyer of his own choice for this purpose. The AB is appointed by the President of Singapore under the Constitution of Singapore, and is headed by a Supreme Court judge. It has all the powers of a court of law for summoning and examining witnesses and compelling the production of documents that it deems relevant. In hearing detainees' representations, it can examine Internal Security Department (ISD) officers and statements of witnesses as well as reviews the evidence and investigation. The AB is required to sit within three months of the date of the OD to consider the detainee's representation, and subsequently makes its recommendations to the President. Upon considering the AB's recommendation, the President may give the Minister for Home Affairs directions; in this regard, no person shall be detained or further detained without the President's concurrence. The AB is further required to undertake a yearly review of the OD and make further recommendations to the Minister for Home Affairs.

49. The ISA also has provisions for a Board of Inspection to be appointed. This Board comprises Justices of the Peace. They make unscheduled visits to the detention centre and are entitled to inspect the place and speak to the detainees. Detainees are able to convey requests and complaints to these Board members who will channel them and any other recommendations to the Singapore Government. Detainees also receive weekly visits from their families.

50. With respect to the Jemaah Islamiyah (JI), the draft Report fails to mention that the JI is listed on the Security Council's List of Al-Qaida and Taliban linked terrorist entities, pursuant to UN Security Council Resolution 1267 (1999). The detention of JI members, and the restrictions imposed on some of them after detention, are based on concrete security grounds as the JI is an Al-Qaida-linked terrorist

organisation that had carried out several devastating bomb attacks in South-east Asia, and planned many others, including against many Western targets in Singapore such as embassies.

51. The draft Report once again cites secondary sources of questionable accuracy such as Amnesty International's reports. The drafters of the Report should have researched accurate primary sources such as the Government's White Paper entitled "The Jemaah Islamiyah Arrests and the Threat of Terrorism" (Cmd. 2 of 2003, presented to Parliament on 7th Jan 2003.) The White Paper clearly explains the background of the JI network, the activities of the JI in Singapore and the ISA Advisory Board's Report and Recommendation.

Chia Thye Poh

52. Chia Thye Poh was indeed a Communist Party of Malaya (CPM) member. This was independently disclosed to the Internal Security Department (ISD) by several members and later confirmed by a high ranking CPM cadre. Chia was instructed by the CPM to use his position as a *Barisan Socialis* (BSS) Member of Parliament (MP) to penetrate the BSS and engage in Communist United Front agitation aimed at destabilising the Singapore Government. He did this by mounting a series of illegal demonstrations and industrial strikes and calling for armed revolution. Far from being a person of peaceful beliefs, Chia advocated armed struggle and violence. Before his arrest in Oct 1966, he had resigned from the office of MP, publicly renounced constitutional politics and declared that his party was resorting to an extra-parliamentary struggle on the streets. Chia was detained for his involvement in the CPM and to avert widespread unlawful demonstrations and violence.

Conclusion

53. Given the comments by Singapore in this Response, the IBA's concerns about the rule of law are unfounded, these concerns having been premised on allegations of questionable merit from certain non governmental organisations and individuals that have persistently demonstrated bias against Singapore. We are pleased that the IBA has expressed an interest in a full understanding of the situation. After all, many members of the IBA spent a week in Singapore at the Association's conference last year. They had the opportunity to see and assess for themselves the state of the rule of law in Singapore and whether it is fair for the draft report to portray Singapore as an oppressive state where there is little regard for human rights and the rule of law. The views expressed by Singapore in this Response should provide the full understanding that has been requested.