

**SPEECH BY MINISTER FOR LAW AND SECOND MINISTER FOR HOME AFFAIRS
MR K SHANMUGAM AT THE OPENING COCKTAIL RECEPTION OF THE SEASONAL
MEETING OF THE NEW YORK STATE BAR ASSOCIATION INTERNATIONAL
SECTION, 26 OCTOBER 2009 AT SMU ADMINISTRATION BUILDING CONFERENCE
HALL 1**

The Honourable the Chief Justice Chan Sek Keong,

The Honourable Justice Chao Hick Tin, Judge of Appeal,

Mr Michael Getnick, President, New York State Bar Association,

Mr Michael Galligan, President of the International Section of the New York State Bar Association,

Professor Howard Hunter, President, SMU,

Mr Michael Hwang, President, Law Society of Singapore,

Prof Michael Furmston, Dean of the SMU School of Law,

Distinguished Guests,

Ladies and Gentlemen

Good evening,

I. Introduction

1. The theme of your conference is “New York and New Asia. A Partnership for the 21st Century”. Singapore is a good place to be in, thinking about such a partnership. It will give you a gentle introduction to the intricacies of Asia. And we are part of the new, vibrant Asia, freed from the taboos, the superstitions and unworkable political and economic ideologies of the past.

2. In that context, I will speak to you about:-

- (1) Singapore;
- (2) our relationship with the US, and
- (3) what we, small as we are, could mean to you, as you seek to forge a partnership with Asia.

II. Singapore / US

A. Singapore

3. First, Singapore: If you look at the world map, Singapore’s position is striking; it is at the nodal point between the two great Asian giants, India and China. We are at the strategic point, in one of the most strategic waterways of the world. Much of the trade between the West, the Middle East, Africa on the one hand and the East Asian

giants, China, Korea and Japan, passes through the Straits of Malacca - including a quarter of the world's oil shipments.

4. We are also at the economic heart of South East Asia, a region of 580 million people, who are hardworking and talented. It is a region rich in resources, and bursting with energy. The potential is enormous, and is now being realised - the region has been largely freed from the shackles of unworkable political and economic ideologies, which had kept it back.
5. We in Singapore believe that we are well placed to ride on this wave of regional economic progress. For 50 years, we have consciously gone about implementing rational economic and social policies, at a time when such policies were not fashionable – like openness to foreign investment, clear laws protecting such investment and recognising that wealth is better created through open competition rather than closed protectionism. We have thus become a leading financial, manufacturing, trading and services centre in the region.
6. Our open policy towards talent and capital, sound financial system, strong adherence to Rule of Law, ease of communications, excellent infrastructure, all make this place attractive to both businesses as well as High Net Worth Individuals.

B. Relationship with the US

7. Let me now touch on our relationship with the US. The relationship the US has had, and continues to have with many countries in Asia, is multifaceted. And parts of that relationship have been befuddled by the parties not understanding each other.
8. Americans are very direct, and speak a language which is fact based and logical. Sometimes, that language has not taken account of local nuances, and the tides of nationalism and anti-colonialism. Sometimes it mistook nationalism for something more sinister and Anti American. Asians in some countries, on the other hand, viewed Americans as little more than neo colonialists, replacing the British, the French and the Dutch.
9. In contrast to this, Singapore has had a quite excellent relationship with the US. The relationship has been largely free of misunderstandings. I say largely. I will touch on a couple of aspects which have been mildly contentious, later.
10. Our excellent relationship has resulted in many deep ties, including strong economic and strategic ties. It is also worth noting the impact of American soft power on Singaporeans. I will touch briefly on these aspects.

(i) Economic Linkages

11. There are thousands of Americans with their families, working and living in Singapore. Several major American institutions including, several leading Financial Institutions have significant presence in Singapore. Singapore and the US have an Free Trade Agreement, which came into force in 2004.
12. Twenty out of 97 foreign law firms present in Singapore are American. Two American law firms have recently been given Licences that allow them to practise Singapore law.

13. American companies have very large investments in Singapore. In the last two years, two American companies alone committed about US\$8 billion in two projects, in addition to various other American investments.
14. Despite our small size, Singapore is the US' 15th largest trading partner, and in 2008, our total trade volumes amounted to over US\$60b.

(ii) Strategic Linkage

15. Let me now touch on the strategic ties. Singapore believes that the US has an important role to play in this region. We see a sustained US presence as an important stabilising influence in the Asia-Pacific region.
16. Our sentiments have been backed by our concrete actions. America used to have a large base in Subic Bay in the Philippines. That Base was closed in 1992 because America and the Philippines could not agree on what the US would pay the Philippines. Some sectors of the Filipino society were also against the Base.
17. The US faced the prospect of being turfed out of this region. That would have been a serious setback to America's strategic interests, and also not good for the region.
18. So we stepped in. We are not big enough to offer a Base. But we allowed US ships and aircraft to use Singapore's facilities.
19. The offer was based on a clear minded analysis of our national interests. It was not influenced by emotion or rhetoric.
20. The signing of an Agreement between the two Governments in 2005 marked a new milestone in US-Singapore relations. We formalised our long standing and wide ranging bilateral defence and security cooperation.
21. Thus today, we stand as a trusted and reliable friend of the US. In terms of recent international security operations, we have made contributions to Afghanistan and the Gulf of Aden, where we work closely with the US and other coalition partners. Given our size, our contribution can only be modest. We also regularly hold bilateral military exercises with the US and multilateral exercises with the US and other regional armed forces.
22. As I say this I will also emphasise that a small city state like Singapore must, in its own interests, have deep and strong linkages with as many countries as possible. Thus in addition to the US, we also have excellent deep and strong, relationships with various other countries, big and small, including our near neighbours as well as the Asian giants, China and India.

(iii) Soft Power

23. Next let me touch on American soft power in Singapore. Singaporeans of my generation and younger have been brought up on American TV and culture. It is the country we know most about.

24. Our universities have close linkages to the top universities in the US, including partnerships and collaborations with the Duke University, MIT and Wharton (amongst others). Chicago University's Booth School is here as well.
25. Singapore has a practice of selecting the most promising High School students and sending them overseas on education scholarships. Between 2000 and 2007, about 2000 students were sent abroad on scholarships. Ninety per cent of them went to the UK or the US. Increasingly the trend is to favour American universities. When they come back they take on top roles in the Public Sector. In addition to those who go on public scholarships, many others go independently to further their education in the US.
26. An illustration would be our Cabinet. Ten out of our 21 Ministers have had some education in the US, in top schools. This would also be reflective of the upper echelons of our Civil Service – the decision makers.
27. This education, in our formative years, has made many of us admirers of many aspects of American society.

III. The Economic Potential of Partnership

28. Now let me touch on the economic potential of these linkages.
29. Over the foreseeable future, the opportunities in this region are going to multiply. The economic rise of China and India is inexorable. Much has been said about them. I don't need to repeat the details. It is enough to say that China is a 4.4 trillion dollar economy that will grow at between 8 to 10 per cent per annum. India is a 1.2 trillion dollar economy that will grow at between 6 to 8 per cent, with the potential to grow even faster. They also have an almost inexhaustible supply of top quality human capital. Important centres in both countries (including both capitals and the major financial centres of Mumbai, Hong Kong and Shanghai) are within 6 hours of flight from Singapore. Indonesia, whose capital is 1 ½ hours away, has had several years of relative stability and growth and seems set to continue on that path. It is expected to grow by 4 per cent in 2009 and is projecting 5 per cent growth in 2010. It has over 4 billion barrels of proven oil reserves and 98 trillion cubic feet of proven gas reserves, making it the tenth largest holder of such reserves in the world and the largest in the Asia Pacific Region.
30. According to one study, Asia Pacific wealth is expected to hit US\$13.5 trillion, and Asia's share of global GDP is expected to hit 30 per cent by 2018.
31. Yesterday, there were declarations from the Asean Summit. Leaders from China, Japan, Korea, Australia, New Zealand and India also attended the Summit.
32. A number of Free Trade models have received endorsement. By 1 January 2010 (i.e. in two months), tariffs on more than 87 per cent of intra Asean imports are slated to be removed, on a dual track basis, with some countries moving faster than others.
33. The leaders also accepted a Report on the feasibility of a proposed East Asia Free Trade Area, comprising the 10 ASEAN countries as well as, China, Japan and Korea.

34. A separate report on a Comprehensive Economic Partnership between those 13 countries and India, Australia and NZ are also being studied.
35. The 16 countries will have a market of 3.1 billion people and a current GDP of US\$19 trillion; one-third of the global GDP.
36. There are also plans to enhance road and rail connectivity between China and this region. A high level task force has been set up to develop a master plan and infrastructure development fund.
37. These are plans. But they are plans to which the top leaders have committed themselves publicly. There will be many hurdles along the way in seeking to implement these plans. But it is undeniable that this region understands the need for free trade, better infrastructure and is moving in the right direction.
38. There is much that American companies and firms can do to take part in this region's growing development and prosperity.
39. Singapore is a natural place for Americans to consider, to locate, and take part in this progress. Why? Because we are a stable democracy with the following attributes:-

A. Government

- (1) We have a rational Government, that is fundamentally pro market. No expropriations, no unfair taxation, no U-Turn on policies. On the World Bank Governance Index, we get 100 for Government Effectiveness and 99.5 for Regulatory Quality. We are also ranked as the 3rd least corrupt country in the world. Government policies are formulated for the long term and clearly articulated. The Government is not held hostage to interest groups. The Government moves quickly, decisively and efficiently.
- (2) In 2007, FDI (stock) in Singapore amounted to US\$331 billion, including over US\$36 billion from the US. Our FDI inflows in 2007 and 2008 were US\$35 billion and US\$21 billion respectively. We are an open economy. IMD ranked Singapore as the 3rd most competitive economy in the world in 2009.
- (3) Our GDP per capita at PPP is US\$51,500. Total GDP is US\$182 billion.
- (4) Our estimated stock of private wealth is about 700 billion USD.
- (5) That excludes Government Reserves. The Government generally runs budget surpluses.

B. Legal Framework

- (6) Our legal framework is ranked among the top in the world by both the WEF and IMD.
40. You can get a case heard in the High Court within eight to 10 months, if the lawyers move quickly. Appeals are disposed off within another five to six months. Our Court system is recognised as effective, fair and one which men of commerce can trust.

41. We have also taken steps to make Singapore a leading international arbitration centre. In 2008, ICC ranked Singapore as one of top five locations in the world for arbitration. The Singapore International Arbitration Centre (SIAC) is gaining wide acceptance internationally. This March, an international blue-ribbon Board (with nine members from seven different countries including two Americans) was appointed to helm the SIAC. The SIAC deals with many cases. Any lawyer from anywhere in the world can appear in the arbitration hearing in Singapore, and the parties are free to appoint whom they choose as Arbitrators. The judicial philosophy is to not intervene in arbitration.

C. Livable City

We also have low taxes. The top bracket for personal income tax is 20 per cent and for corporate income tax only 18 per cent. These rates are amongst the lowest in the world. Many tax incentives are also available. Quality of life here is excellent. Mercer's 2009 Report ranks us top in the world for City Infrastructure and 26th overall. The Mori Report, based on a comprehensive survey places us 5th in the world, after NY, London, Paris and Tokyo. The survey is based on the economy, R&D, cultural interaction, liveability, ecology, natural environment and accessibility. Singapore is a great place to bring up a family, with excellent schools, parks and recreation. And you get great access to nature within –one to two hours of flight.

42. Our internet connectivity is high. Household Broadband penetration is at 115 per cent. Singapore ranks among the top three connected cities in the world.

IV. Some of the differences in perceptions about Singapore

43. Let me, in this context, touch on a couple of points made about human rights by Mr Galligan and how we feature in a separate ideology - the Asian value system of human rights. If you look at Singapore in 1959 when we became a (self-governing) state and in 1965 when we were kicked out of the Federation and became independent, you will see a city that was poor, in the third-world, with no natural resources, surrounded by Malaysia in the north, which had just kicked us out, and Indonesia in the south. What can you do to survive as a city, many people warned us.

911 is a tragedy but it was never an existential threat for the US. For us, when World War II ended, the communists declared war on us. That involved thousands of highly-trained armed young men and women who were ideologically motivated, financed by communist countries. As many of you would recall, in the 1950s and 60s, there was a time when people thought that a large part of the world could be swept through with Communism. We were at the frontlines. And the British had to deal with that. They put in the predecessor to the Internal Security Act. We inherited it and added to it. There was paranoia, as you can understand, because of the existential threats. The communist threat, the threat of being kicked out of the Federation and the fact that our unemployment was high. A large part of our economy was dependent on the British bases here. You can imagine the economic challenges. We needed to move the population from a third-world mindset, with most of the population being people who came here as immigrants with no idea of

nationalism, and bringing them forward into the 20th century and developing economically while ensuring security and stability. Those were huge challenges. I invite the audience to think about this point. Name a country that became independent in the 1950s, post-colonial, post-Second World War, name me one country that has done better, better than Singapore, despite the challenges.

And when you talk about human rights, if you take stability for granted, if you take education, healthcare for granted, if you take economic progress for granted, as the US had taken all these for granted in the 20th century because all the bases for development had been set.

If you take your own security for granted, then you start thinking forward about the finer aspects of human rights. But first you must secure the base and make sure that the country is safe to move along. That was the part that most countries were involved in, in the third world, post-Second World War, and unfortunately, most of them did not succeed well in that.

Our success is that we took the institutions that the British gave us and we built upon them. We have a judiciary that is stronger today and more respected. It is a truly great institution that is ranked highly internationally. If you look at the institutions, whether it is civil service or the judiciary, or any other in Singapore, all these are free of corruption and they are efficient. None of this happens by an accident. None of this can take place with an absent rule of law. None of this can take place by controlling people's minds. We have 115 per cent connectivity and you walk out there and you can get 5,500 international journals, it's hard to talk about controlling people's minds. But that is the perception that you might get of Singapore if you have only read certain American newspapers, without having being here.

I know some of you had a long flight, many of you, and I had meant to skip this part. But I am going to talk to you a little bit about our approach to the press.

44. If you read about Singapore in some American newspapers, you may not get the picture of prosperous modern city state, with strong adherence to the Rule of Law. Instead if you didn't know Singapore and only read these journals, you may believe that we are a repressive, state that controls the people's thoughts (as if that is possible in a modern, successful, wired and internationally connected city like Singapore), and that we unfairly target the press.
45. Our approach on press reporting is simple: The press can criticise us, our policies. We do not seek to proscribe that. But we demand the right of response, to be published in the journal that published the original article. We do not accept that they can decide whether to publish our response. That irks the press no end. If the press cross the line from attacking our policies and make allegations of fact against someone – that that person is corrupt or if they make some other personal factual attack is made, then there will be a libel suit – and the factual accusation must be proven. If allegation is proven, the Plaintiff will lose the case and pay legal costs. Otherwise the accuser pays damages and legal costs.
46. Likewise in the political arena. We have no problems with tough debate, criticism of policies. But we believe that such debate should avoid untrue and scurrilous personal attacks. Personal reputation is no less valuable than personal property. Public discourse does not have to descend into the gutter.

47. If untrue statements are made that a person is corrupt or that he lied, or that he tried to help my family or friends, there will be a suit. Let the accuser prove it. But if it is said that someone is stupid or that policies make no sense and the policies are attacked vigorously, then you can't sue. There is public prerogative, to comment on policies. In response it will be sensible to defend the policies and ignore the attacks on intellect.
48. Over the years this has resulted in the Government and Ministers having several tussles with newspapers – the Wall Street Journal, Far Eastern Economic Review and so on. The press are not used to this anywhere else in the world. And of course it will be no surprise - they don't like it one bit. So every Law suit is met with the same reaction – we are out to silence the press. That feeling has been pervasive and has, in my view, coloured the general reporting on Singapore. When I was in private practice, I have dealt with some libel cases. I have looked at some of the articles, which were the subject of a law suit: it would have been perfectly possible to have been deeply critical of government policies (often the central thrust of the articles) without the addition of totally unnecessary remarks on some form of corruption.
49. How objective is the criticism of Singapore in relation to press freedom? I took some trouble to go through with you how we rank on various economic, governance and quality of life indices. Is it possible to have a modern, successful, open economy if the people are not empowered and educated? I will share with you something that struck me as quite absurd and divorced from reality: there is an organization called Reporters Without Borders. It comes out with a ranking of countries on press freedom. In 2008 they ranked us 144 out of 173 countries, somewhere below Ethiopia, Sudan, Kazakhstan, Venezuela, Guinea, Haiti, and so on.
50. Today's International Herald Tribune had a story on Guinea. The Headlines were "Ousting Guinea's brutal junta". The first paragraph read as follows:-

"One month ago over 150 people were gunned down by soldiers in the West Africa country of Guinea. Women were raped on the streets, and opposition leaders were locked up. This was the response of a brutal military junta to a group of brave citizens who dared to hold a peaceful pro-democracy rally."

51. We are apparently below Guinea on Press Freedom.
52. This year, we have behaved better – so we moved up to Rank 133. Below Kenya (which saw riots following a disputed election), and Congo (which continues to struggle with the aftermath of an armed conflict that has claimed more than 5m lives), Venezuela, and so on. But we are ranked above North Korea and Eritrea.
53. If you look at a different ranking, the Freedom House rankings for 2009, we are ranked below Haiti, Colombia, Kenya, Moldova, Guinea, Pakistan and so on. We are 151 out of 195. We are ranked together with Iraq.
54. These are all countries which are trying to progress. My point is not that we are in any way inherently superior to them – the question is whether a truly objective assessment will give us such a ranking. Our approach has therefore to been to

ignore the criticisms which make no sense – and we continue to do better. The people of Singapore also know better. Sixty-five per cent voted for the Government at the last General Elections. And the investors who put in billions every year know better as well. They do not have to come here. We do not have any natural resources. Our main selling point is that there will be good value added when they invest here, their investments will be protected, and that we are a stable democracy.

55. These issues are fundamental to the relationship between the two countries. The relationship is based on more solid footing.

Conclusion

56. Try and experience Singapore yourself. Talk to our lawyers. Talk to our professionals. You are likely to go away convinced that:

- (1) on the whole we do many things right, even though you may not agree with everything we do; and
- (2) if you are thinking of doing business with Asia, this is a place to seriously consider.

57. Let me end by saying this. Last Friday 23 October, Moody's continued with its triple A sovereign rating for Singapore. I think what it said about Singapore is worth reflecting on:-

"Singapore's ratings are based on our assessment of its very high economic resilience and robust government finances,"...

"Its economic resilience is derived from its high per-capita income, strong human capital base, flexible labor and product markets, and highly effective policy, regulatory and market institutions and mechanisms. These structural and institutional features have supported the city state's very high level of economic resiliency and have enrolled it to withstand the global economic crisis, not withstanding its large degree of economic openness..."

"The rating reflects appropriate policy responses to the global economic crisis, and which – alongside a strong financial position – are allowing the country to weather the downturn with relative ease. The government's counter-cyclical policies are being implemented with relatively less stress on its underlying credit fundamentals than many other triple A rated countries. The countercyclical policies and evolving medium term economic strategies should position Singapore to effectively exploit regional and global growth opportunities."...

"The risk of sudden, adverse shifts in regional or domestic political stability is low, and the banking system is reasonably positioned to cope with prolonged global financial volatility or weakness in domestic demand."...

“Singaporean authorities are striving to fortify the economy’s medium term competitiveness within the context of ensuring social inclusiveness, maintaining a high degree of institutional effectiveness and credibility.”...

“Meanwhile, Singapore’s corporate and banking sectors are well managed, have avoided deep distress, and pose low contingent fiscal risks. The Singaporean Government’s large net external creditor position and its relatively low susceptibility to financial, economic or political shocks underpin its very high “financial robustness.””...

58. When Asia grows rapidly, as we have no doubt it will, it is going to need services: Legal, Accounting, Financial, Lifestyle and many other services. We are placed well to be one of the leading cities to providing these services, in addition to our developing strengths in R&D and high value manufacturing.
59. We hope you will take part in the immense wealth that is going to be created in this region and partner us in the Asian growth story.
60. Let me end by congratulating SMU Law School on the signing of the MOU with the NYSBA and in the deepening of their ties.
61. Thank you.

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