

ASIA'S FIRST: THE SINGAPORE INTERNATIONAL COMMERCIAL COURT (SICC)

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Background

The idea to create a Singapore International Commercial Court ("**SICC**") was first mooted by the Honourable Chief Justice Sundaresh Menon at the opening of the Legal Year 2013, with a view to growing the legal services sector, and expand the scope for the internationalisation of Singapore law.

Subsequently, in May 2013, a committee co-chaired by Senior Minister of State for Law and Education Indranee Rajah S.C and the then Judge of Appeal Justice VK Rajah was formed to study the viability of developing a framework for the SICC. The Report of the SICC Committee was released in November 2013, and the Government conducted a public consultation of the report between December 2013 and January 2014.

The framework for the SICC was put in place, and the SICC was officially launched on **5 January 2015**.

As was stated by the Minister for Law Mr K Shanmugam in Parliament, the establishment of the SICC is in line with the vision to promote Singapore as a leading dispute resolution hub.

A study by the Asian Development Bank on trade, suggests that Asia could account for half of the world's GDP, trade and investment by 2050. For its part, ASEAN is also working towards the ASEAN Economic Community, to integrate and transform ASEAN into a single regional market with a freer flow of goods, services, investment, skilled labour, and capital.

With the projected economic growth and increase in investments, there would also be an increase in the number and complexity of cross border disputes and a corresponding increase in the need for reliable cross border dispute resolution services.

Framework and features of the SICC

We summarise some of the main features of the SICC below, in order to provide a quick overview.

Jurisdiction

The SICC is established as part of the Supreme Court of Singapore and is a division of the High Court. The jurisdiction of the SICC is governed by Section 18D of the Supreme Court of Judicature Act. Generally, the SICC has jurisdiction to try an action if:

1. The claims between the parties are of an international and commercial nature;
2. The parties had submitted to the Court's jurisdiction under a written jurisdiction agreement; and
3. Parties do not seek any relief in the form of prerogative order.

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The SICC also has jurisdiction to hear any case transferred from the Singapore High Court. All appeals from the SICC will be heard by the Singapore Court of Appeal.

Joinder of additional parties

Once an action is commenced, it may be possible to add another party to the action, as an additional plaintiff or defendant, or as a third or subsequent party. Parties may be represented by foreign lawyers in certain proceedings, for example, offshore cases which have no substantial connection with Singapore.

Distinguished International Judges

The Judges of the SICC include 11 International Judges from Australia, Austria, France, Hong Kong, Japan, the United Kingdom, and the United States.

Costs

The fees payable are set out in the Rules of Court. Unlike arbitration or mediation, there will not be any arbitrator or mediator fees charged.

Enforcement

A SICC judgment, as a judgment of a superior court, has existing means of enforcement. It can be enforced by registration in countries scheduled under the Reciprocal Enforcement of Commonwealth Judgments Act (RECJA) (which covers countries such as the United Kingdom, Malaysia, and India (except the state of Jammu and Kashmir)), or the Reciprocal Enforcement of Foreign Judgments Act (REFJA) (which covers Hong Kong).

Conclusion

These are early beginnings for the SICC but it is already an attractive dispute resolution option for the international community. Over time, the Government may need to consider taking further steps to enhance the enforceability of SICC judgments, such as through court to court arrangements, bilateral government agreements, and multilateral agreements.

For now, a party wishing to make use of the advantages of a court-based dispute mechanism for cross-border disputes should first consider having a suitably worded clause in the agreements. The submission to SICC could be before or after a dispute arises, and in any event, careful attention to the drafting of a suitably worded clause would increase the effectiveness of the clause in terms of jurisdiction, the governing law, compliance with any orders made, the finality of judgement and its enforcement.

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