

The Singapore International Commercial Court – A Masterstroke

On January 4 2013, Chief Justice Sundaresh Menon of the Supreme Court of Singapore announced at the Opening of the Legal Year plans to establish the Singapore International Commercial Court (SICC). On 29 November, barely 11 months after that announcement, the SICC Committee, comprising senior Judges, government officials and Singaporean and international jurists, submitted its report to the Singapore Government, which has welcomed the Committee's recommendations. In a word, the proposed SICC is a masterstroke. The idea is at once bold, visionary and entrepreneurial.

The rationale behind the proposal is compelling, given significantly increased cross-border investment and trade into and between the Asian economies. Singapore, with its well developed legal system, world class infrastructure and "trusted hub status", is ideally positioned to become Asia's premier dispute resolution hub to handle the expected growth in complex, high value, multi-jurisdictional commercial and investment disputes.

With this aim in mind, the SICC Committee has made the following key recommendations:

- the SICC be established as a division of the Singapore High Court to hear international commercial disputes
- SICC cases be heard before justices selected from an SICC Panel comprising existing Supreme Court Judges and *ad hoc* Associate Judges, including eminent international jurists. This will offer international litigants the option of having their disputes heard by specialist commercial judges
- the SICC shall hear cases governed by Singapore law or any foreign law chosen by the parties
- in cases which have no substantial connection with Singapore, parties may be represented by foreign counsel registered with the SICC, with the registration requirement aimed at securing counsel's adherence to a code of ethics
- decisions of the SICC will be appealable to a Court of Appeal comprising international jurists from the SICC Panel and/or existing Judges from the Singapore Court of Appeal
- a set of rules, following international best practices for commercial dispute resolution, be created to govern SICC proceedings.

In short, recognising shifts in global economic trends and an undeniable economic opportunity, Singapore has crafted a proposal which offers a world-class service to address the needs of global and regional commercial parties for a reliable, efficient and effective mode of court based dispute resolution. There is no question that the proposal to establish the SICC will be keenly followed and discussed in international legal circles. It marks one of the most significant developments on the international legal scene this year.

One key challenge for the success of the SICC is the need to significantly enhance the enforceability of its judgments internationally. Unlike international arbitration awards which are enforceable with relative ease under the New York Convention, judgments of the SICC, like other judgments of the Supreme Court of Singapore, may only be enforced through reciprocal enforcement agreements with other States or through a common law action on the judgment debt. In this regard, it is noteworthy that the SICC Committee has recommended that the enforceability of SICC judgments be enhanced at three levels:

1. multilateral government agreements (including ASEAN-level arrangements)
2. bilateral government agreements
3. court-to-court arrangements.

There is no doubt that the Singapore Government will undertake the necessary steps towards this end.

The aim for the SICC to position itself as the premier forum for court-based commercial dispute resolution within and beyond Asia is well within reach. Its success will bring significant advantages to businesses and legal practitioners across the globe. The proposal places Singapore at the cutting-edge of international litigation.

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