

## The Singapore International Commercial Court: now open for business

January 8, 2015 | Written by Ian Roberts and Nicholas Sykes

On Monday 5 January 2015, the Singapore International Commercial Court ("SICC") was officially opened at the commencement of Singapore's legal year, almost two years to the day since Chief Justice Sundaresh Menon first mooted the establishment of the SICC.



Singapore has identified the growth in commercial activity in Asia and the expected corresponding increase in commercial disputes as factors behind the necessary introduction of the SICC. The SICC is a division of the High Court and will hear cases which are both international and commercial in nature.

The establishment of the SICC complements Singapore's pre-existing ADR institutions (the Singapore International Mediation Centre (opened in November 2014) and the Singapore International Arbitration Centre). Singapore now provides a full suite of dispute resolution options for commercial parties, not just in Asia, but worldwide.

### Jurisdiction and rules

In our December 2014 update we outlined the legislative provisions enacted to provide jurisdiction to the SICC and enable foreign lawyers to appear before the SICC and the Court of Appeal in matters on appeal from the SICC.

Proceedings in the SICC are governed by the pre-existing Singapore Rules of Court ("**the Rules**"), as modified by legislative provisions ([click here to read further](#)), and procedural guidelines are contained within the SICC Practice Direction ("**PD**"). The amended Rules and new PD are intended to follow international best practice for commercial dispute resolution.

Subject to certain conditions, the Rules and PD now permit foreign counsel (i.e. those not called to the Singaporean Bar) to appear before the SICC and Court of Appeal on appeals from the SICC. They also allow the SICC to determine questions of foreign law based on submissions made by appropriately qualified foreign counsel, rather than being proved by way of expert evidence in the traditional manner.

## Types of cases

The SICC has the jurisdiction to hear a claim if: (i) it is of an international and commercial nature; (ii) the parties have submitted to the SICC's jurisdiction pursuant to a written jurisdiction agreement (although third or subsequent parties may be joined to an action once the SICC has assumed jurisdiction); and (iii) the parties do not seek any relief in the form of, or connected with, a prerogative order (i.e. an order against a public body seeking the enforcement of specific rights). The SICC may also hear cases which are transferred from the High Court at its discretion.

## Judges

The Chief Justice of Singapore, Senior Judge Chan Sek Keong, Judges of Appeal of the Singapore Court of Appeal, Justices of the Singapore High Court and eleven international jurists have all been appointed as the first Judges of the SICC.

The international jurists appointed are eminent in particular areas of law and possess substantial expertise in their home jurisdictions. The first set of international jurists appointed as International Judges of the SICC are:

- 1 | **Mr. Dyson Heydon AC QC**, former Judge of the High Court of Australia
- 2 | **Justice Patricia Bergin**, Chief Judge in Equity of the Supreme Court of New South Wales
- 3 | **Mr. Roger Giles**, former Judge of the Court of Appeal of the Supreme Court of New South Wales and current Judge of the Dubai International Finance Centre Court
- 4 | **Dr. Ingrid Griss**, former President of the Austrian Supreme Court
- 5 | **Justice Dominique Hascher**, Judge of the Supreme Judicial Court of France
- 6 | **Mr. Anselmo Reyes**, former Judge of the Court of First Instance in Hong Kong and Judge in charge of the Construction and Arbitration List and the Commercial and Admiralty List
- 7 | **Professor Yasuhei Taniguchi**, Professor Emeritus at Kyoto University and former Chairman and Member of the Appellate Body of the World Trade Organisation
- 8 | **Sir Bernard Rix**, former Judge in charge of the Commercial Court and subsequently Lord Justice of Appeal in the Court of Appeal of England & Wales
- 9 | **Sir Vivian Ramsey**, former Judge of the High Court of England & Wales and Judge in charge of the Technology and Construction Court

- 10 **Mr. Simon Thorley QC**, an IP lawyer and former Deputy High Court Judge of the England & Wales High Court and Deputy Chairman of the Copyright Tribunal of the UK
- 11 **Ms. Carolyn Berger**, former Justice of the Supreme Court of Delaware and former Vice Chancellor of the Court of Chancery of that jurisdiction

## Observations

Singapore's business friendly legal system and "trusted hub" status have long attracted counterparties operating in South East Asia and beyond to Singapore for the resolution of their disputes. They now have greater choice in determining how they do so.

The jurisdiction and proceedings of the SICC are clearly distinguishable from those in arbitration. SICC proceedings will generally be heard in open court and all SICC matters will be heard by either one or three Judges, although unlike in arbitration proceedings, the parties will not be able to nominate the SICC Judge(s) to hear their matter nor propose whether the Judge is a Judge of the Singapore High Court or an International Judge. This is distinct from arbitration where parties can agree to nominate their preferred arbitrator.

A judgment of the SICC will be a judgment of the Singapore High Court. Singapore is a signatory to few reciprocal agreements with other nations in respect of the enforceability of judgments in each other's jurisdiction. The question of enforceability will likely be a significant factor in determining the popularity of the SICC. It is therefore no surprise that Singapore is considering reciprocal agreements with other ASEAN nations and becoming a signatory to international conventions which would allow for greater enforceability overseas. However, for the time being, the enforceability overseas of Singapore judgments is more limited than arbitral awards issued in Singapore which are enforceable in 149 countries worldwide pursuant to the New York Convention.

Should you require further information on the SICC or discuss proposed wording of an SICC exclusive jurisdiction clause, please contact [Ian Roberts](#) or [Nicholas Sykes](#).

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