

Recent legislative bills passed paving the way for the Singapore International Commercial Court

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Consistent growth in global trade and investment has seen significant increases in foreign direct investment into Asia over the last few years. Singapore has long been recognised as having a business friendly legal system and has enjoyed a "trusted hub" status. In seeking to reinforce that position, it has proposed the establishment of the Singapore International Commercial Court in order to deal with cross-border disputes. Here, we report on recent legislative developments towards establishing the international court.



Whilst Singapore is already a well-established and popular arbitration centre, the rise in the number of international commercial disputes being handled in Singapore has highlighted the opportunity for the introduction of an international court better suited to deal more effectively with particular disputes (for example, multiple party disputes or disputes with subject matter otherwise not amenable to international arbitration).

The proposed Singapore International Commercial Court (**SICC**) (which in some respects resembles the Qatar International Court and Dispute Resolution Centre or the Dubai International Financial Centre Courts) will provide an alternative to international arbitration in Singapore, and is likely to compete against arbitral institutions in the major arbitration centres of London, Hong Kong and Dubai.

The proposed SICC will exist as a division of the Singapore High Court and will be part of the Supreme Court of Singapore. It will acquire the following features (click [here](#) to read further):

- The SICC will be able to adjudge on Singapore law, or any foreign law chosen by the parties without the need for such foreign law to be pleaded and proved as fact
- The SICC's jurisdiction may be enlivened by contract, by the agreement of the parties after a dispute has arisen, or by the discretion of the Chief Justice who will have the power to transfer cases to the SICC from the Singapore High Court
- Foreign lawyers will be permitted to appear before the SICC in certain cases
- Judges hearing SICC matters will be drawn from eminent foreign and Singaporean jurists
- A set of rules will be published which have been formulated to govern proceedings in the SICC based on international best practice

Legislative changes: Paving the way for the SICC

A number of recent legislative bills tabled in Singapore look to make necessary amendments to establish the SICC. On 7 October 2014, the Ministry of Law tabled three amending Bills pivotal to establishing the SICC. These Bills were passed on 4 November 2014. At this stage, the SICC appears to be on track for business in 2015. The three amending bills are as follows:

- **The *Supreme Court of Judicature (Amendment) Bill***: The Bill puts in place the SICC's framework, setting out its jurisdiction and composition, including creating offices for Senior Judges and International Judges. For example, the new section 18D would enable the SICC to hear and try any action of an international and commercial nature that may be heard by the Singapore High Court. Also, appeals from the SICC can, subject to restrictions and leave, be heard by the Court of Appeal (the court of final appeal in Singapore).
- **The *Constitution of the Republic of Singapore (Amendment) Bill***: This Bill will, among other things, create two new judicial appointments – a Senior Judge and an International Judge. A person appointed to be either a Senior Judge or an International Judge would need to take an Oath of Office before the Singapore President. The Oath for an International Judge is slightly different – there is no requirement to swear to preserve, protect and defend the Singapore Constitution. Under the amended Article 22(1), the Singapore President has the discretion to refuse the appointment of a person as either a Senior Judge or an International Judge. Also, unlike judges of the other Singapore courts, Senior Judges and International Judges would not enjoy security of tenure and their remuneration would be based on the number of days for each specific case.
- **The *Legal Profession (Amendment) Bill 2014***: As part of the Supreme Court of Singapore, proceedings before the SICC would be subject to the *Legal Profession Act* (Cap. 161, 2001 Rev Ed.) (**LPA**). At present, parties can only be represented by members of the Singapore Bar, subject to the discretion of the court to admit Queen's Counsel or foreign lawyers of equivalent distinction on an ad hoc basis in certain cases. The Bill seeks to amend the LPA so as to allow for all foreign-qualified lawyers, registered with the SICC, to appear in certain proceedings in the SICC. From a broad perspective, foreign-qualified lawyers will be subject to the same professional disciplinary regime as their Singapore-qualified counterparts. For instance, to ensure a minimum standard of conduct, all foreign-qualified lawyers must undertake to abide by a code of ethics.

Conclusion

Further work is needed to implement concrete proposals to ensure the enforceability of SICC judgments and to enact agreements on a bi-lateral and multi-lateral level for this purpose, or to introduce court to court arrangements. Until clearer plans are in place to secure such reciprocal enforcement arrangements, it may be that one concern for international parties contemplating using the SICC would be the limited avenues of enforcing a SICC order in another country (unlike foreign arbitral awards which are more widely enforceable under the *New York Convention*).

These Bills illustrate Singapore's eager push to establish the SICC, which when established will provide an interesting boost to Singapore's renowned reputation as a global dispute resolution centre.

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