

SICC NEWS

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The Year 2016 in Review

The Singapore International Commercial Court ("SICC") Conference 2017 took place on 10 and 11 January, with the Judges and International Judges in attendance. The conference is an annual event convened to review the work of the SICC, and to set further strategic goals for the development of the SICC. The SICC Conference 2017 is the third of such conferences.



The following is a summary of an update provided by the Honourable Justice Quentin Loh, the Judge in-charge of the commercial court, and Ms Teh Hwee Hwee, the Divisional Registrar of the SICC, on the more significant developments relating to the SICC in 2016.

Singapore became a party to the 2005 Hague Convention on Choice of Court Agreements

At the first SICC conference in January 2015, the Honourable the Chief Justice had indicated Singapore's intention to become a party to the Hague Convention on Choice of Court Agreements ("the Convention"). Singapore ratified the Convention on 2 June 2016 and the Convention entered into force for Singapore with the commencement of the Choice of Court Agreements Act 2016 ("the Act") on 1 October 2016. In addition to Singapore, all the EU member states (except Denmark) and Mexico are parties to the Convention. The Convention serves to enhance the enforceability of court judgments across contracting

States, akin to how the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (i.e., the New York Convention) has enhanced the enforceability of arbitral awards, and allows SICC judgments to be enforced in States which are parties to the Convention.

In relation to the Act and the consequential amendments to the Rules of Court, the main points to note are that where an agreement to submit to the jurisdiction of the High Court is concluded on or after 1 October 2016, it is to be construed as including an agreement to submit to the jurisdiction of the SICC, unless a contrary intention is expressed. In addition, the amended rules specify the requirements for transfer of cases from one court to another (i.e., when and how the High Court may transfer a case falling under the scope of the Act to the SICC, and vice versa). A new Order 111 of the Rules of Court also came into operation on 1 October 2016, setting out the procedures in relation to matters under the Act, such as, rules regulating applications for the enforcement of foreign judgments in Singapore.



The Honourable Chief Justice Sundaresh Menon



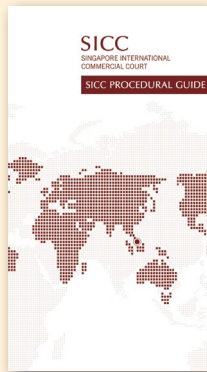
The Honourable Justice Quentin Loh



Ms Teh Hwee Hwee
Divisional Registrar of the SICC

Launch of the SICC Procedural Guide

The SICC Procedural Guide was launched by the Chief Justice at the Opening of Legal Year 2017. The SICC Procedural Guide is borne out of a suggestion made at the SICC Conference 2016 for an official guide on the procedures of the SICC to be drawn up, including the applicable legislation, Rules of Court and practice directions. The SICC registrars wrote the SICC Procedural Guide with a view to providing the reader with a quick and simple means to understand the SICC practice and procedures. The SICC Procedural Guide can be accessed at <https://goo.gl/O7AeSf>.



potential users' understanding of the SICC's jurisprudence in international commercial law. They noted that the SICC received very positive first reactions regarding its case management practices and judgments. The first SICC judgment, for example, has been described as "a master class" in dealing with rules of contractual interpretation, public policy and the implication of terms that showcased the Court's ability to deal with complex commercial disputes involving different systems of law. The SICC's procedures have been praised as "commercially attractive" because they embody the best features of commercial litigation and arbitration. The SICC has also been mentioned for its efficiency, with one commentator referring to the decisions in the first two cases as having been delivered "swiftly", despite the complexity of those cases.

The SICC also saw the filing of the first two notices of appeal to the Court of Appeal arising from one of the cases. The appeals will present potential users with further opportunities to observe and be better acquainted with the SICC dispute resolution framework.

Further refinements to the practice and procedure of the SICC

Justice Loh and Ms Teh also discussed a number of topics, such as the requirements for the SICC to take jurisdiction, the management of pleadings and voluminous court papers, the use of a memorial-style brief, the discretion of SICC Judges to deviate from procedural rules, the case management policies and practices of the SICC, as well as various proposed amendments to the Rules of Court to further refine the SICC Rules.

There were two foreign counsel who were granted restricted registration to participate in the first SICC case to make submissions on questions of Indonesian law. The first appearance by a foreign counsel granted full registration to represent a party in the SICC was on 9 January 2017 via video link in a matter before the Honourable Justice Bernard Eder. These, too, are important developments that demonstrate the SICC's commitment to providing foreign parties with the option of seeking representation by foreign counsel of their choice so long as the relevant requirements for the participation of foreign lawyers are satisfied.

Firsts in 2016

The year 2016 saw a number of "firsts" for the SICC.

The first judgment was delivered on 12 May 2016. At the time of the SICC Conference 2017, eight cases were transferred from the Singapore High Court to the SICC and six written judgments/grounds of decision were delivered. There are eight judgments/grounds of decision delivered at the time of writing.

The presenters commented that the judgments are important for the SICC's development as they help enrich

Looking forward

A number of initiatives to develop the SICC, including plans for its promotion and its further development as a court of choice for the international business community were discussed at the SICC Conference 2017, and numerous new ideas were generated. These, and the developments that have been made thus far, place the SICC in good stead for greater progress in 2017 and beyond.



It has been two years since the SICC was set up and it continues to be of paramount importance to build and solidify the Court's international presence. 2016 proved to be a productive and positive year as the SICC ventured beyond the region, sometimes with the support of our local and international jurists.



8th Asian Maritime Law Conference September 2016



At the 8th Asian Maritime Law Conference in Singapore, held on 29 and 30 September 2016, attendees gained insights to the latest innovations in dispute resolution, amongst other topics like insolvency of shipping companies and more. The SICC, together with representatives from other dispute resolution institutions, presented at a seminar called "Appropriate Dispute Resolution – the Singapore Way". In an age where more dispute resolution centres both regionally and globally are emerging, the SICC shared about its innovations and procedures that distinguish itself from others.

Dispute Resolution in Asia Workshop November 2016

Kobe University invited the SICC to its 2016 Dispute Resolution in Asia Workshop on 5 and 6 November 2016. During its presentation, the SICC provided an overview of the Court to attendees made up of both academia and legal practitioners from Japan and the region. Interestingly, the SICC was the only Court, amidst a host of renowned arbitral institutions like the International Chamber of Commerce and the Singapore International Arbitration Centre, which serves to reinforce the SICC's position as a prime international commercial dispute resolution venue.

In-House Counsel World Summit October 2016

With the theme "Global business, local rules – Local business, global rules", the biennial In-House Counsel World Summit 2016 emphasised the increasing need to work within a global environment while considering local laws, culture and business practices. It was organised by the In-House Counsel Worldwide group, a network of 10 in-house counsel associations from around the world.

Held on 24 and 25 October 2016 in Paris, the Summit attracted international corporate counsel, and speakers from various segments of the legal community. Moderated by Senior Counsel Mr Tan Chuan Thye, the workshop titled "A Modern Commercial Court for Asia - An Asian Vision" focused on the SICC, with Judicial Commissioner (JC) Chua Lee Ming and International Judge (IJ) Dominique Hascher representing the Court as panellists. Ms Claire Walter, Head of Dispute Resolution Paris-London at Credit Agricole Corporate & Investment Bank, and Associate Professor Adeline Chong from the Singapore Management University's School of Law, formed the rest of the panel.

JC Chua shed light on the corporate counsel's likely considerations in his/her choice of dispute resolution forum and addressed the SICC's cost comparisons with arbitration, while IJ Hascher shared on the SICC's innovative features, like its flexible rules of representation and enforceability of judgments. IJ Hascher said: "With its global reach, this Summit will continue to be a great platform for the SICC to showcase its offerings to an international audience for years to come."



Latest Judgments

- Decision on a summary judgment application for **Arris Solutions, Inc and Ors v Asian Broadcasting Network (M) Sdn Bhd**: [http://www.sicc.gov.sg/documents/judgments/2017_SGHC\(I\)_01.pdf](http://www.sicc.gov.sg/documents/judgments/2017_SGHC(I)_01.pdf)
- Decision on an interlocutory application for **BNP Paribas v Jacob Agam & Anor**: [http://www.sicc.gov.sg/documents/judgments/2017_SGHC\(I\)_02.pdf](http://www.sicc.gov.sg/documents/judgments/2017_SGHC(I)_02.pdf)

A full list of SICC judgments may be obtained at <https://goo.gl/lted2>



Law, Justice and Development Week 2016
December 2016

Organised by the World Bank Group (WBG), the Law, Justice and Development Week, held in Washington DC from 5 to 9 December 2016, attracted policymakers, legal professionals and international non-governmental organisations. JC Kannan Ramesh spoke at a session titled “Better Contract Enforcement Through Enhanced Fora and Tools”, to share about the SICC and its potential in handling international commercial disputes.

In addition, the SICC had bilateral meetings with other constituents of the WBG like the International Finance Corporation and Multilateral Investment Guarantee Agency.

“It was an exceptionally productive trip. We were able to share the SICC’s unique strengths as a dispute resolution forum with not only key constituents of the WBG but also practitioners in major US dispute resolution practices. The positive reception that we received bodes well for the future and holds the promise of new and exciting opportunities,” said JC Ramesh.



While the SICC has made headway in its outreach efforts, it is also of great significance to have renowned legal practitioners, who are not affiliated to the SICC, take on ambassadorial roles and share about the Court’s attributes in public forums.



David Foxton QC’s Lecture in Singapore

On 24 August 2016, the Singapore Academy of Law and the SICC jointly organised a lecture, “Foreign Law in Domestic Courts”, by Mr David Foxton QC. The attendees were mostly made up of legal practitioners. Mr Foxton QC delved

into the various approaches to establishing foreign law, and offered new perspectives on the way foreign law issues are addressed in courts today. The SICC was singled out as an example of adopting innovative procedures for trying cases with a foreign law element. He highlighted that in the Court, foreign law may be determined by written or oral submissions instead of proof, whilst permitting admission of foreign counsel and having the participation of judges from both civil and common law jurisdictions. He believed that “the SICC offers the intriguing prospect of civilian and other non-common law judges being involved in determining issues of law arising under their own systems on the basis of the submissions of advocates qualified under those systems”.

Justice Vinodh Coomaraswamy and Ms Judith Gill QC also joined Mr Foxton QC in the panel discussion after his lecture. A specialist in international commercial arbitration, Ms Gill QC offered fresh takes on the advent of alternative approaches to establishing foreign law.



2nd International Bar Association Conference on Private International Law

Mr Lawrence Teh, Senior Partner of Dentons Rodyk & Davidson LLP, headed to Milan, Italy, and presented on the SICC at the 2nd International Bar Association Conference on Private International Law, which

took place on 17 and 18 November 2016.

Over 150 international legal practitioners learnt about the Court from Mr Teh as he expounded on its rationale and jurisprudence foundations. He also shared its key features such as the panel of specialised and international judges, flexible procedures and foreign counsel representation.

More importantly, he emphasised the ease of enforceability of a SICC judgment internationally. “These features make the SICC a suitable and ideal dispute resolution forum for disputes with a strong international element,” he said. Mr Teh also added that the presentation was well-received by the delegates who attended the Conference.



Registered Foreign Lawyers

As at 31 January 2017, the SICC has 76 registered foreign lawyers (RFLs) on its register. Foreign lawyers are welcome to apply to be registered with the SICC. To view the full list of RFLs and find out more about registration, please visit www.sicc.gov.sg/ForeignLawyer.aspx?id=101

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