

FEATURE

The Year 2020 in Review

2020 will be remembered as a year where the most common phrase was “You’re on mute!”. But more importantly, the pandemic had forced, and is continuing to force, businesses to reinvent their services and product delivery. Many businesses have created an online presence, and the Singapore International Commercial Court (“SICC”) is no different. For the first time, the SICC Conference was held virtually on 12 & 13 January 2021 — a timely reminder of the need to be flexible and how we have become accustomed to having technology as part of the court’s eco-system. The annual SICC Conference is an occasion for the Singapore Bench and International Judges to come together and be updated of the progress made in the past year, discuss and assess legal developments, as well as chart the course for the year ahead. Notwithstanding the different time zones for the international judges, everyone was “all-hands-on-deck” to make the two-day conference a resounding success.

The following summarises the key updates provided at the Conference by Justice Quentin Loh, President of the SICC, and Mr Phang Hsiao Chung, Divisional Registrar — SICC.

The SICC in numbers

As of end-2020, the SICC had a docket of 62 first instance cases since it was established in January 2015. Of these, 56 were matters transferred from the Singapore High Court to the SICC and six were fresh filings. Last year was especially significant for the SICC as it received 16 transferred cases and accepted one fresh filing. This resulted in 17 cases being added to its docket, the highest ever in its brief history and an increase from 16 in 2019.

Separately, the SICC was kept busy as it ended the year with 65 first instance written judgments cumulatively. The Court of Appeal continued the momentum from its first written judgment on an SICC matter back in 2017 to 14 written judgments in total on appeals on SICC judgments.

In addition, true to its vision of being an international commercial court, it continues to see a steady number of Registered Foreign Lawyers (RFLs). As at 31 December 2020, the SICC had 89 RFLs on its register (including 23 Queen’s Counsel, three Senior Counsel and one Senior Advocate), as well as a Registered Law Expert. This is evidence of the legal community’s recognition and endorsement of the SICC as a trusted, neutral forum for transnational commercial disputes.

A Snapshot of the SICC

(as at 31 December 2020)



56 international & commercial cases transferred



6 fresh filings



65 published judgments — first instance



14 published judgments — appeals



89 registered foreign lawyers



17 *international judges

*Taniguchi IJ’s term expired in January 2021

Updates on SICC procedures

As travel restrictions were imposed due to the COVID-19 situation, the SICC Practice Directions were amended effective 20 July 2020 to address issues dealing with the giving of evidence by a person outside Singapore through live video or live television link in any proceedings. The amended Practice Directions require any person outside Singapore intending to give evidence by live video or live television link in any proceedings to apply for leave expeditiously and, in any case, unless the Court otherwise

directs, not later than 8 weeks before the commencement of the hearing at which the person is to give evidence. The party applying for leave must also take note of the relevant legislation and requirements in force in the foreign country or territory where the person is giving evidence; and must make all necessary enquiries, and take all necessary steps, to ensure that the foreign country or territory raises no objection to the giving of evidence in that country or territory for court proceedings in Singapore.

NEWS



Justice Yasuhei Taniguchi, International Judge, has completed his term on 4 January 2021.

Completion of term

Justice Yasuhei Taniguchi has completed his term as International Judge on 4 January 2021. Justice Taniguchi was one of the first cohort of international judges who were appointed on 5 January 2015. He assumed his post as International Judge of the Singapore International Commercial Court at the age of 80. Justice Taniguchi has been an academic, teaching at various universities in Japan and other countries like the United States, Hong Kong, Australia, France and China. He has been Professor Emeritus at Kyoto University, Japan, since 1998.

He has held various distinguished positions including Chairperson of the Appellate Body of World Trade Organisation, Council Member of the International Council for Commercial Arbitration (ICCA), and Member of the Law Revision Commission of the Ministry of Justice of Japan. He was also Chairman of the Rule Making Committee of the Japan Commercial Arbitration Association (JCAA) to draft the new Administrative and Procedural Rules for Arbitration under the UNCITRAL Arbitration Rules and the totally-amended Rules of Commercial Arbitration of JCAA.

SICC OUT & ABOUT

A virtual ECC-SAL Mooting Competition

Essex Court Chambers (ECC) and the Singapore Academy of Law (SAL), in partnership with the Singapore International Commercial Court (SICC) and Opus 2, hosted the first ever virtual ECC-SAL Mooting Competition from 5 – 14 January 2021. As the restrictions of the Covid-19 pandemic precluded an in-person event for this annual competition, and not wishing to break the trend and cancel or postpone the competition, the organisers decided to conduct it as an entirely virtual event, echoing the actual developments in the SICC and the Singapore Court of Appeal.

This year's competition saw 21 teams of young practitioners from Singapore, Australia, Hong Kong and India pitted against each other, giving them the opportunity to develop and demonstrate advocacy and legal reasoning skills in a

Justice Quentin Loh, President of the SICC (in maroon background) was in attendance to kick off the mooting competition which ran from 5th January 2021 through to the final on 14th January 2021.



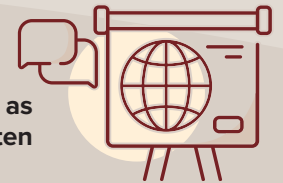
competitive, real world environment. The moot problem for the preliminary rounds was based on a fictional case over an international commercial dispute governed by English law heard and determined by the SICC, and the elimination rounds were heard as an appeal to the Singapore Court of Appeal.

The grand final, which was held on 14 January 2021, was judged by a panel of distinguished judges comprising Justice Ang Cheng Hock of the Singapore Supreme Court, Justice Datuk Nallini Pathmanathan, Federal Judge of Malaysia, and Co-Head of ECC Joe Smouha, QC.

The Grand Final saw Team Chow & Wong (winner) pitted against Team SAS (runner-up) conducted via Opus 2 platform.



The SICC conducts talks to students and corporate organisations regularly, as well as presents at conferences and seminars in Singapore. The SICC Development team often seeks opportunities to feature the Court at various legal and corporate platforms.



An engaging afternoon at the SMU Yong Pung How School of Law

On 22 February 2021, more than 20 students of the International Mediation Law and Practice program from Singapore Management University (SMU) Yong Pung How School of Law were given insights into the SICC and its unique strengths and advantages. Due to the pandemic, these students were not able to visit the court unlike earlier cohorts, but were instead acquainted with the various technologies used in the court room in detailed description through the many photos presented.

In an engaging session, the students came away with a better understanding of how the SICC was an “uncommon common law” court and could be said to be “arbitration in litigation”. In particular, not only were the students enlightened about key benefits of litigation such as the availability of appeals as well as published judgments, other unique features of interest were representation by foreign lawyers, the procedural flexibility afforded parties, and the ability to join third and related parties to a dispute before the Court.



SICC engages legal counsel of Total E&P Asia Pacific

On 23 February 2021, Total Exploration & Production (E&P) Asia Pacific Pte Ltd (Total) gathered its team of in-house counsel and Group General Counsel, Mr Aurelien Hamelle, for a hybrid physical/virtual session at Total's Office with the SICC. There ensued an engaging session on the SICC as an efficient and effective venue for resolution of international commercial disputes given its competitive fee

structure and procedural flexibility, presence of International Judges on the SICC Bench, as well as some of the disputes where foreign parties were represented by foreign counsel. Ms Carine Coudeville, Vice President Legal – Asia Pacific, found the session very productive and would explore further sessions with a larger group of Total's legal team in Paris as well as other regions.



Latest Judgments

12 MARCH 2021

Carlsberg Breweries A/S v CSAPL (Singapore) Holdings Pte Ltd [2021] SGHC (I) 1

[Contract] – [Breach]

10 FEBRUARY 2021

Solomon Lew v Kaikhuishru Shiavax Nargolwala and others and another appeal [2021] SGCA (I) 1

[Agency] – [Construction of agent's authority] –
[Contract] – [Formation] – [Trusts] – [Accessory Liability]
– [Conflict of Laws] – [Choice of law] – [Contract] –
[Civil Procedure] – [Costs]



Visit go.gov.sg/sicc-judgments to access the case summaries and for more past judgments

Registered Foreign Lawyers

As at 28 February 2021, the SICC has 90 registered foreign lawyers (RFLs) and a registered law expert (RLE) 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 <https://go.gov.sg/sicc-registration-foreign-lawyers>

SICC Model Clauses

The SICC has model clauses available, including clauses for submission of disputes to the jurisdiction of the SICC (both pre- and post-dispute) and in relation to the parties' rights of appeal. You may view them here: https://www.sicc.gov.sg/docs/default-source/guide-to-the-sicc/sicc_model_clauses.pdf


Enforcement of SICC Judgments

SICC judgments are enforceable in many jurisdictions, both civil and common law. You may access a Note on Enforcement of SICC judgments here: <https://go.gov.sg/sicc-enforcement-guide-note-sep-2018>

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Singapore International Commercial Court

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