



Greetings from Chief Justice Sundaresh Menon

It seems barely possible, but it has already been four years since the Singapore International Commercial Court (SICC) was set up. The SICC has achieved several milestones in that time, and this year especially, it garnered the attention of the media, and the international business and legal communities.

The SICC's caseload has increased year on year, from just two cases in 2015, to 12 new cases this year – and that includes one fresh filing. The first fresh filing coming after just three years is welcome news because it validates our belief that commercial parties are writing SICC clauses into their contracts.

In the light of China's Belt & Road Initiative, much of the financing for which is arranged from out of Singapore, it was especially timely that in August this year, the Supreme Court of Singapore signed a Memorandum of Guidance on the Recognition and Enforcement of Money Judgments in Commercial Cases with the Supreme People's Court of the People's Republic of China. This serves as added assurance to businesses and legal professionals who might be concerned about the enforceability of SICC judgments in China.

One of the SICC's unique features is its bench of experienced Singapore High

Court judges and distinguished international judges hailing from common and civil law traditions. This year, I had the unique privilege of hearing an appeal from the SICC (ref: [2018] SGCA(I) 05) with two other very senior jurists—Justice Beverley McLachlin PC from Canada and Justice Lord Neuberger of Abbotsbury from the United Kingdom. Justice McLachlin was the longest-serving Chief Justice of Canada and Justice Lord Neuberger was the President of the Supreme Court of the United Kingdom.

The SICC is steadily gaining recognition as a trusted neutral venue for international commercial dispute resolution in Asia. Our staff regularly interact with our stakeholders including Corporate Counsel, and they tell us that they are advocating greater use of SICC-jurisdiction contracts having regard to the attractive fee structure, the SICC's proven effectiveness in bringing multiple parties together at hearings that can resolve all the issues as well as the availability of appeals.

With much anticipation, I look forward to more breakthroughs and achievements in the coming years. May that be so for you too!

Season's Greetings and Best Wishes for the New Year! 🎉

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Chief Justice Sundaresh Menon

PERSPECTIVES

AN INTERNATIONAL COMMERCIAL COURT IN SINGAPORE SEEN FROM THE EYES OF A REGISTERED FOREIGN LAWYER

He is a barrister at Essex Court Chambers, specialising in commercial litigation and commercial arbitration. Born in Kuala Lumpur, Malaysia, then called to the English Bar in 2002 and was appointed Queen's Counsel (QC) in 2018. Meet Ng Jern-Fei¹, who at 38, is one of the youngest QCs to be appointed. He has also been a Registered Foreign Lawyer (RFL) of the SICC since 2015.

As a barrister with a truly international background, he shares with *SICC News* his thoughts on what distinguishes the SICC from other dispute resolution forums, aside from it being a truly international court.

What were your considerations for registering with the SICC as a RFL?

One of the things I have discovered over the years is that there is no one-size-fits-all approach to commercial dispute resolution. Some contracts (and the disputes arising from those contracts) are better suited to be resolved by way of arbitration whilst others are more suited to be litigated in court. The SICC is an exciting component of Singapore's repertoire of dispute resolution offerings which, in conjunction with the Singapore International Arbitration Centre (SIAC) and the Singapore International Mediation Centre (SIMC), serves to provide end users with different methods in which to resolve commercial disputes. Having been involved in no fewer than 160 international commercial arbitrations (around half of which were or are seated in Singapore), either as counsel or arbitrator, it made complete sense for me to register as a RFL with the SICC and thus broaden the suite of services I would be able to offer.

How is the SICC set apart from other courts that adjudicate commercial matters?

There are three factors in particular. Firstly, the SICC has a specially-curated panel of Singapore and international judges (IJs) drawn from a diverse body of expertise and experience. Of the IJs, there are those drawn from civil law jurisdictions in addition to those who hail from common law jurisdictions and of the latter, many of

them are current or former judges of commercial courts in other jurisdictions. Secondly, RFLs are authorised to appear as advocates in offshore cases and when combined with the diversity of the geographical origins of its judiciary, serves to make the SICC a truly *international* commercial court. Thirdly, the legislative amendments introduced a year ago so as to confer jurisdiction on the SICC over proceedings related to international commercial arbitration, provides it with the further impetus to develop as an international *commercial* court, in a way similar to the Commercial Court in London.

How do you think the SICC will fare in comparison with other international commercial courts in other places across the world?

There is not a doubt in my mind that the future is bright for the SICC. The conventional wisdom is that the 21st century will be the Asian Century. Asian Development Bank projections indicated that Asia will contribute US\$174 trillion (or more than half) of global GDP by 2050, with China and India being the largest and second largest economies in the world. Singapore is uniquely placed at the cross-roads of both of these two economies and already serves as a natural hub for the neutral resolution of commercial disputes involving parties from the region.

Singapore already has a deep bench of judicial and legal talent whose experience is drawn from a wide range of backgrounds and, perhaps unlike no other country in the region, has a workforce (both in the legal and other sectors) who are able to operate not only in English but in the three major languages which will constitute the *lingua franca* of commerce in the Asian Century, including Chinese, Bahasa and Hindi. I have every bit of confidence that the SICC (and indeed the SIAC and SIMC) will thrive as a premier forum for commercial dispute resolution in the Asian Century. 📍



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Ng Jern-Fei

Registered Foreign Lawyers

As at 30 November 2018, the SICC has 80 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 <https://www.sicc.gov.sg/registration-of-foreign-lawyers/registration-of-foreign-lawyers>

¹ Identified as a leading practitioner in 17 separate categories across different Legal 500 and Chambers & Partners directories (nine of which are Tier 1 rankings). Described in some of those legal directories as: a "truly superb advocate" who "can eat documents for breakfast" with an ability to "present practical legal solutions that not only win you the battles, but also the war." E-mail: jfng@essexcourt.net.

SICC OUT & ABOUT

One of the key groups of people the SICC Development reaches out to is legal professionals, both locally and internationally. Over the past couple of months, many have also expressed interest to learn about the SICC and visited the Supreme Court of Singapore to find out more.



Law Society of Shangdong Province's President presenting a gift



Shaanxi Lawyers' Association

SICC hosts Chinese and Omani lawyers

On two separate occasions—27 July and 20 November—lawyers from Law Society of Shangdong Province and Shaanxi Lawyers' Association respectively visited the SICC. Their large delegations were keen to learn about the Court's unique features that include the ability to join related parties and the flexible option of applying for confidentiality in proceedings. As a division of the Singapore High Court, the SICC leverages its world-class judiciary and its administration in all its cases whilst presenting the perspective of a truly international court with the presence of IJs and representation by non-Singapore registered lawyers. Some of the lawyers were also pleased to know that the Supreme Court of Singapore had recently signed a Memorandum of Guidance on the Enforcement of Money Judgments in Commercial Cases with the Supreme People's Court of the People's Republic of China, a significant agreement for both judiciaries and a major boost in confidence levels of businesses – especially those along the Belt and Road Initiative.

More than 20 lawyers from the Omani Lawyers Association (featured in the left photo), led by its Chairman Dr. Mohamed Ibrahim, visited the SICC on 27 August. SICC Development shared about the SICC as one of the key dispute resolution forums for international commercial disputes and essentially summarised it as “arbitration in litigation”. It adopts the best practices of arbitration and marries them with the merits of litigation like the availability of appeal, all in a cost-effective package. Hence, the SICC is able to remain flexible and agile to the complex and diverse needs of commercial parties.



SICC Development frequently participates in outreach events, both local and international, and beyond just legal-related platforms.

Establishing a presence in the infrastructure scene

The SICC participated in the *Asia-Singapore Infrastructure Roundtable* as an exhibitor under the auspices of the Ministry of Law on 23 October, together with the SIAC and the SIMC. Representatives of the Ministry of Law shared about these three institutions and how they make up the dispute resolution ecosystem in Singapore. As the premier platform for dialogue between government leaders, policy makers and infrastructure companies on Asian infrastructure projects, this Roundtable gave the SICC the opportunity to interact with key industry practitioners.



Speaking at a major Chinese legal intelligence forum

SICC Development headed to Shenzhen, China for the *3rd Qianhai Legal Intelligence Forum* held on 3 and 4 November. SICC's representative, Mr Laurence Wong, spoke in the Forum's first session titled “Latest Developments in International Commercial Adjudication”. He expounded on some of SICC's striking features such as the panel of esteemed local and international judges from both civil and common law traditions, as well as offering non-Singaporean lawyers the option to apply to be a RFL with the Court. In addition, Mr Wong was also the moderator and commentator for the second day's panel discussions, which saw strong participation from in-house counsel from the Chinese cities in the Greater Bay Area. They touched on a wide range of topics from mediation to ascertaining foreign law in international commercial courts.

SICC OUT & ABOUT

Knowledge exchanges take place regularly between the SICC and judiciaries of other countries, and the SICC often hosts overseas judicial officials in the Court.



Supreme Court of the Republic of Uzbekistan

Deputy Chairman of the Supreme Court of the Republic of Uzbekistan, Mr Isakov Bakhtiyor Tursinmatovich, led an eight-member delegation to the Supreme Court of Singapore on 5 November. With the desire to know more about how disputes involving foreign investors are being adjudicated in Singapore, the SICC had the honour of sharing with Mr Isakov how it was established in a relatively short amount of time and its flexible procedures like the determination of foreign law may be based on submissions by counsel. It was a very interactive session as the officials were intrigued by the flexible features of the SICC – all aimed at establishing international best practices in dispute resolution. In addition to learning about the SICC, they also learnt about Singapore’s advanced court technologies which enable smoother and more efficient proceedings.

Judicial Policy Research Institute

As an independent research institute under the Supreme Court of Korea, the Judicial Policy Research Institute (JPRI) is instrumental in providing a blueprint for the future of South Korea’s judicial system. On 14 November, four members of the JPRI visited the SICC, including Presiding Judge, Mr Han Seongsoo (second from right in above photo). SICC Development shed light on how the Court possesses desirable attributes of arbitration whilst retaining some traditional court-based procedures, such as published judgments with clear Grounds of Decision and the availability of appeal (which parties may contract out of if they so wish).

Mr Han said after the session: “The SICC is a forward-looking court that offers commercial parties the best of both worlds of arbitration and litigation. Moreover, it is able to tap on the trusted and efficient administration of the Singapore High Court. It was an honour to visit and learn about the SICC.” 📍

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

For more information on the enforcement of SICC judgments, you may access the Note at <https://goo.gl/2VtHpv>

LATEST JUDGMENTS

29 August 2018

Court of Appeal Judgment on PT Bayan Resources TBK & Anor v BCBC Singapore Pte Ltd & Anor [2018] SGCA(I) 06: <https://goo.gl/Kzqeof>

5 October 2018

Court of Appeal Judgment on BNP Paribas SA v Jacob Agam and another [2018] SGCA(I) 07: <https://goo.gl/kFuXCM>

12 November 2018

Arovin Ltd & Anor v Hadiran Sridjaja [2018] SGHC(I) 09: <https://goo.gl/TNL2Kp>

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