

SICC NEWS

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Guidance Notes on Enforcement Signed with Courts in Abu Dhabi, UAE, and Victoria, Australia

The Supreme Court of Singapore recently signed separate guidance documents on enforcement with the Abu Dhabi Global Market (ADGM) Courts and the Supreme Court of Victoria (Commercial Court). This is a positive development for the Singapore International Commercial Court (SICC), which is a division of the Singapore High Court. As potential users of the SICC will mostly likely be international and the disputes that the SICC hears may have little or no connection to Singapore, these documents serve to lend clarity (and provide guidance) as to how money judgments may be enforced in the respective courts.

ADGM Courts

On 8 March 2017, Justice Quentin Loh, on behalf of Chief Justice Sundaresh Menon of Supreme Court of Singapore, and Lord Saville of Newdigate PC, on behalf of Lord Hope of Craighead KT, Chief Justice of ADGM Courts, signed a Memorandum of Guidance (MOG) as to Enforcement of Money Judgments. The MOG concerns judgments that require a person to pay a sum of money to another person, and sets out the requirements and procedures for enforcing these judgments between the two courts.

The SICC's primary purpose is to adjudicate international commercial disputes, hence this MOG with the ADGM Courts serves to guide businesses in seeking effective resolution of commercial disputes that require enforcement of money judgments in the other's courts.

At the same time, both parties also signed a Memorandum of Understanding (MOU) for Judicial Cooperation. This will allow for regular exchanges and discussions on matters including judicial systems and reforms, court technology, training and research, and trends in dispute resolution, which will reinforce the excellent bilateral relations between the Supreme Court of Singapore and the ADGM Courts.

Supreme Court of Victoria (Commercial Court)

In late 2014, the Supreme Court of Singapore and the Supreme Court of Victoria respectively set up the necessary structures to create divisions dedicated to the timely resolution of commercial disputes, namely the SICC and the Supreme Court of Victoria (Commercial Court). With shared legal heritage and commercial ties between Singapore and Victoria dating back to the 19th century, both courts further cemented their partnership with an Exchange of Letters.



Justice Quentin Loh and Lord Saville of Newdigate PC signed the memoranda with Singapore's Minister of Foreign Affairs, Dr Vivian Balakrishnan, and the United Arab Emirates' Minister of Cabinet Affairs, Mr Mohammad Al Gergawi, in attendance

"I am delighted that the Supreme Court of Singapore has signed the memoranda with the ADGM Courts, and undertook an Exchange of Letters with the Supreme Court of Victoria. These arrangements underscore our increasing interactions with other judiciaries around the world as we strengthen our ties with them and build up a network of international commercial courts to enable closer co-operation."

— Justice Quentin Loh



In March 2017, Justice Kim Hargrave, Principal Judge of Victoria's Commercial Court, and Justice Quentin Loh, Judge-in-Charge of the SICC, signed the Exchange of Letters on cross-border enforcement of money judgments. It is stated that a money judgment obtained in the Supreme Court of Victoria may be registered and enforced in the Singapore High Court under the Reciprocal Enforcement of Commonwealth Judgments Act (Cap 264), and likewise a money judgment obtained in the Supreme Court of Singapore for a monetary sum may be registered and enforced in the Supreme Court of Victoria under the Foreign Judgments Act 1991.

◀ On behalf of Justice Quentin Loh, Registrar of the Supreme Court of Singapore, Mr Vincent Hoong (right), met with Justice Kim Hargrave in Victoria for the Exchange of Letters

Perspectives

First Time PRC Court Recognises a Foreign Judgment Based on Principle of Reciprocity

By Anthony Poon, Partner of the Dispute Resolution Group, Baker & McKenzie (Hong Kong), and Shen Peng, Special Counsel of the Dispute Resolution Group, Baker & McKenzie (Beijing)

On 9 December 2016, the Nanjing Intermediate People's Court announced a decision enforcing a civil judgment of the Singapore High Court. This is the first time a Chinese court has recognised and enforced a foreign court judgment based on the principle of reciprocity.

Under the PRC Civil Procedure Law, Chinese courts can recognise and enforce foreign court judgments only on the basis of international convention, bilateral treaties or the principle of reciprocity, provided they do not violate basic principles of Chinese law, state sovereignty and security, or public interest. China has not ratified the Hague Convention on the Recognition and Enforcement of Foreign Judgments in Civil and Commercial Matters. Nor has China entered into a bilateral treaty with major jurisdictions such as Singapore, US and UK for the mutual recognition and enforcement of court judgments. The only practical ground to recognise commercial judgments from these jurisdictions is the principle of reciprocity. There is no official interpretation on what constitutes reciprocity, but was commonly understood to mean the willingness by a foreign court to enforce a judgment issued by a Chinese court.

Summary of the decision

A Swiss company obtained a judgment in its favour from the Singapore High Court in October 2015. The Swiss company applied to the Chinese Court to enforce the Singapore judgment.

The Court held that the Singapore judgment can be enforced if the following three conditions are met:

1. There is no applicable convention or treaty between the two nations;
2. The courts in the foreign nation have recognised a judgment issued by a Chinese court; and
3. The underlying foreign judgment does not violate the basic principles of the PRC laws, state sovereignty, security or public interest.



The Court held that the three conditions are met and the principle of reciprocity could be applied based on the Singapore Court's enforcement of a PRC court judgment in 2014.¹

Practical implications

This landmark decision suggests that Chinese courts will likely apply the reciprocity principle in future proceedings without parties having to re-litigate their case. Businesses or parties that have dealings with Chinese businesses, or vice versa, that have their disputes heard in Singapore, may as such be able to benefit from this development. Other parties transacting with Chinese parties and wishing to submit their disputes to foreign courts should check whether there is a bilateral treaty between the foreign nation and China. Absent such a treaty, parties should investigate whether the foreign courts have previously enforced judgments issued by Chinese courts and vice versa.

¹ Giant Light Metal Technology (Kunshan) Co Ltd v Aksa Far East Pte Ltd [2014] SGHC 16

SICC Out & About

As businesses increasingly transcend boundaries and the world we live in becomes “smaller”, more disputes will naturally abound. Understanding the challenges involved and the appropriate dispute resolution forum for their business needs is critical, and the SICC has, together with other forums, sought to share about the solutions available.

INSOL 2017

At the Tenth World Quadrennial Congress of INSOL International (Sydney, 19 to 22 March 2017), Justice Paul Heath of the High Court of New Zealand spoke of how arbitration or other international forums such as the SICC may be used to resolve claims between estates in cross-border restructurings because both options have the potential to provide a neutral forum and flexible procedures to resolve difficult cross-border issues. In response to a question from the floor seeking essentially to understand what advantage the SICC had over arbitration where there was party autonomy, Justice Heath’s response was to remind the international audience that the importance of such party autonomy might be overstated. He emphasised the advantages of the SICC resided principally in the fact that it was a court and backed by the reputation and standing of the Singapore judiciary. He also pointed out that the SICC comprises a diverse range of international judges, including at least two hailing from civil law jurisdictions.



Justice Paul Heath speaks about the SICC as an appropriate dispute resolution forum at INSOL 2017

Meritas Law Firms Worldwide



More than 60 lawyers from around the world descended upon Singapore for a three-day event, one of which was a dispute resolution panel session that took place on 16 February 2017. As part of the Meritas Law Firms Worldwide network which accounts for more than 7,000 lawyers globally, the lawyers heard from the SICC, Singapore International Arbitration Centre (SIAC), Singapore International Mediation Centre (SIMC) and the Singapore Mediation Centre. These legal practitioners, which included Meritas’ leadership team, hailed from Asia, the United States, Europe and Latin America, and were interested in the dispute resolution scene in the Asia Pacific region. The SICC shared about its unique and differentiating features, which include its flexible court procedures and option for foreign counsel representation.

“Many of the overseas delegates came away from the event with a strong imprint of Singapore’s active role, regional leadership and innovation in international dispute resolution. It was eye-opening for them,” said Joyce A. Tan, Managing Director, Joyce A. Tan & Partners LLC.

Baker & McKenzie.Wong & Leow’s Annual Legal Update

At the Annual Legal Update for its clients on 3 February 2017, Baker & McKenzie.Wong & Leow shared on the key developments and trends in the dispute resolution sphere for 2017. Close to 70 clients were present and they came from a myriad of industries like information technology, banking and finance, and pharmaceutical. The seminar ended with a panel session moderated by the firm’s head of dispute resolution, with representatives from the SICC, SIAC and SIMC.

An established forensic sciences group shared that the seminar featured a “great spread of content” and it was enlightening to learn about the roles of the SICC, SIAC and SIMC, and their features and benefits.

“It is a priority for our firm to meet with and update our clients annually on key legal developments and trends for the corporate and commercial sectors. We received positive feedback on the presentations. Clients found the lively panel session on SICC, SIAC and SIMC informative on the various dispute resolution options available in Singapore, and benefited from the deep insights on litigation, arbitration and mediation.”

— Chan Leng Sun SC, Principal,
Baker & McKenzie.Wong & Leow

SICC Out & About

Exchanging and sharing of best practices form an integral part of SICC's development work. In February 2017, officials from both Malawi and the Maldives visited the Supreme Court of Singapore, with the added interest of understanding how the SICC serves the dispute resolution needs of the Asia Pacific region and beyond.

On 8 February, Justice John Katsala, Judge-in-Charge of the High Court of Malawi (Commercial Division), accompanied by two officers from the Court, displayed keen interest in the SICC, how it was set up and its features, and how it serves the dispute resolution needs of the Asia Pacific region and beyond. After all, he was part of the task force that set up the country's Commercial Court and he also drafted the Court's rules of procedure. At the same time, the delegation learnt about the way technology advances and improves court processes, including video conferencing facilities which enable SICC's case management conferences to take place even when international judges are overseas.



The SICC also presented to a 20-member delegation from the Maldives on 13 February. Representatives from the Attorney-General's Office, Maldives Arbitration Centre and the President's Office were present to learn about the Court's journey since its establishment. The session was beneficial as they sought to expand on their commercial law capabilities as a result of the increased ease of doing business in the Maldives.



Latest Judgments

- [13 March 2017] Decision in respect of an application for a stay of execution of parts of a judgment, for **Telemidia Pacific Group Limited & Anor v Yuanta Asset Management International Limited & Anor**: [http://www.sicc.gov.sg/documents/judgments/2017_SGHC\(I\)_03.pdf](http://www.sicc.gov.sg/documents/judgments/2017_SGHC(I)_03.pdf)
- [4 April 2017] Judgment for **Teras Offshore Pte Ltd v Teras Cargo Transport (America) LLC**: [http://www.sicc.gov.sg/documents/judgments/2017_SGHC\(I\)_04.pdf](http://www.sicc.gov.sg/documents/judgments/2017_SGHC(I)_04.pdf)

A full list of SICC judgments may be obtained at <https://goo.gl/lteud2>



Registered Foreign Lawyers

As at 11 April 2017, the SICC has 77 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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