



**JUDICIAL CODE OF CONDUCT
FOR INTERNATIONAL JUDGES
OF THE SUPREME COURT OF
SINGAPORE**

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Introduction

Codes of Conduct for those holding judicial office are now commonplace. These all follow The Bangalore Draft Code of Judicial Conduct which was adopted at a meeting of Chief Justices in The Hague in 2002. The six core values underlying those principles are Independence, Impartiality, Integrity, Propriety, Equality, and Competence and Diligence.

It is important that there should be a code setting out the standards of ethical conduct to be expected of judges acting within those principles. Such a code not only serves as guidance to the judges but also explains to members of the public, particularly those involved with the court system, how judges will behave and thereby secure their respect and support for the judiciary.

Against that background, the Singapore International Commercial Court (“SICC”) developed the Judicial Code of Conduct for International Judges of the Supreme Court of Singapore (“SICC Code of Conduct”). The SICC Code of Conduct was based largely on the Judicial Code of Conduct for the Judges and Judicial Commissioners of the Supreme Court of Singapore, with suitable modifications to reflect the international perspective of the SICC.

The SICC is unusual in that the legislation establishing the Court provides that non-Singaporean nationals may be appointed as International Judges to sit in the SICC. Unlike Singaporean judges, the International Judges serve only as part time judges. They are all distinguished lawyers in foreign jurisdictions who serve to bring a wealth of experience and expertise to the workings of the SICC and enhance the standing of the SICC as an international court. However, these judges are also in demand in roles such as arbitrators, mediators, academics, lecturers, experts, consultants and advisers. It is therefore right that the SICC Code of Conduct should, and therefore does, additionally make it clear how International Judges should conduct themselves when carrying out roles other than that of being an International Judge of the Supreme Court of Singapore.

Preamble

The Singapore legal system is founded upon the cardinal principle that an independent and competent judiciary must interpret and apply the laws of Singapore and any other applicable laws and do justice without any fear or favour, affection or ill-will to the best of its ability. The Judiciary is therefore entrusted by the Singapore Constitution with administering justice and upholding the rule of law. This Judicial Code of Conduct sets out standards of professional ethical conduct that International Judges of the Supreme Court of Singapore (“International Judges”) must respect and honour in their duty to maintain and enhance public confidence in the legal system, having utmost regard to the oath of office that they have taken.

As it is impossible in the nature of things to cover every possible situation, a practical approach which nevertheless contains sufficient specific guidance is adopted. To this end, the Code is organised according to **six themes**, each of which is supplemented by **General Statements, Guiding Principles** and **Commentary** prescribing ethical standards for International Judges. It is non-exhaustive and is intended to provide guidance and assistance for the proper conduct of International Judges in situations where difficult ethical and professional issues may arise.

The Commentary in this version of the Code of Conduct emphasises the importance of judicial independence, impartiality, integrity and propriety, dignity, diligence and confidentiality in the Singapore context. International Judges will also have to comply with similar obligations in relation to conduct in their own countries where their conduct would have an impact on the performance of their functions in the SICC. In addition, in any case where the parties are not Singaporean, an International Judge will have to consider factors relating to or connections with the parties’ relevant countries which might have an impact on the performance of that International Judge’s functions in the SICC.

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INDEPENDENCE

General Statement

International Judges must always demonstrate independence in their individual decision-making, safeguard the institutional independence of the Judiciary as a whole, as well as preserve the public perception of independence.

Guiding Principles

1. International Judges must be cognisant of and clearly reject any influence, in whatever form or degree or from whatever source, that affects or is capable of affecting, or may be reasonably construed as being able to affect, their independence in decision-making.
2. International Judges are independent of one another and are solely responsible for their respective decisions.
3. The Judiciary must be, and must be seen to be, a separate and distinct institution, in particular independent of the Legislature and the Executive in Singapore.
4. International Judges must conduct their private lives in a manner that will not undermine the public perception of their independence and the independence of the Judiciary as an institution.
5. International Judges must not accept any other appointments in Singapore which might undermine the public perception of their independence and the independence of the Judiciary as an institution.

Commentary

1. International Judges should be wary of any attempts, overt or otherwise, to influence their decision-making. They should also guard against subtle forms of influence that may unconsciously or otherwise affect their decision-making.

2. International Judges should not underestimate the extent to which print, social or new media can influence them unsuspectingly to make “popular” decisions or refrain from making decisions that may garner public disapprobation. They should therefore exercise caution when they encounter any form of media coverage, particularly with regard to any high profile or sensitive case over which they are presiding. This will enable them to make decisions unaffected by how their decisions will be received publicly.
3. Although International Judges may, from time to time, find it helpful to consult other judicial colleagues on their cases, the views of such other judicial colleagues should be sought only for general guidance and not in substitution for independent decision-making. International Judges are solely responsible for the ultimate decisions that they make and they should guard against being influenced by the views of their judicial colleagues.
4. International Judges should conscientiously ensure that the level of their associations with members of the Legislature and/or the Executive in Singapore, if any, do not give rise to any doubts about their independence or any unintended appearance that the Judiciary may be beholden to others in any way by such associations. International Judges should not be members of any clubs or associations that have any real or ostensible links with any political party in Singapore.
5. International Judges should be conscious that the manner in which they conduct their private lives may reflect the extent of their independence. They should take the utmost care to ensure that no aspect of their relationships gives rise to any concerns that they may be affected by such associations and undermine public perception of judicial independence.
6. International Judges may accept appointments as neutrals (such as arbitrators or mediators), whether in Singapore or elsewhere. An International Judge may also accept appointment as an expert (and, in this capacity, give expert evidence on any law in respect of which the International Judge is competent to give evidence, and advise an instructing party on all matters that are the subject of the expert evidence) in or for the purposes of any alternative dispute resolution proceedings (such as arbitrations and mediations), whether in Singapore or elsewhere, or any foreign court proceedings. However, an International Judge should be conscious that such appointments, particularly in Singapore or involving Singaporean parties, may lead to conflicts or

perceived conflicts. In cases of doubt, appropriate consultation with the Chief Justice should be sought before an appointment is accepted.

7. International Judges may accept appointments in the academic field, appointments as authors or editors of legal publications, legal journals or legal periodicals, or appointments to give speeches, lectures or written papers or to take part in conferences, seminars or other discussions in a public forum, whether in Singapore or elsewhere. In so doing, the International Judge should be mindful of the provisions in paragraphs 4 to 6 of the Commentary on “Dignity”.
8. International Judges may accept paid consultancies for, or appointments to the boards of, entities outside of Singapore, which may include payment of travel and accommodation expenses, provided that all work done (pursuant to any such consultancy or appointment) is neutral in nature, and the standards that apply to all such work are the same standards that apply to the work of an expert mentioned in paragraph 6 of the Commentary on “Independence”. Such consultancies may be with national governments, foreign institutions or private entities but in all cases the International Judge must consider the possibility that any such consultancy might have an impact upon his or her ability properly to carry out his or her duties as an International Judge and comply with the Guiding Principles of this Code. In any case of doubt, appropriate consultation with the Chief Justice should be sought before accepting any such consultancy.
9. An International Judge may be associated with a law practice or group practice (e.g. Barristers’ Chambers), provided that the International Judge is not involved in advocacy work, or advisory work that is partisan in nature and advances or advocates a party’s case. An International Judge may perform, for a law practice or group practice, advisory work (including for commercial matters) that consists of providing an impartial, independent opinion, and does not involve facing clients. However, an International Judge should not be involved in any marketing activities of, or in actively getting business for, a law practice or group practice. To avoid doubt, giving a speech, lecture or written paper, or taking part in a conference, seminar or other discussion, at an event organised or sponsored by a law practice or group practice does not constitute involvement in the marketing activities of, or in actively getting business for, that law practice or group practice.
10. An International Judge should not engage in any advocacy work in any court proceedings or other proceedings (such as arbitrations and mediations), whether in Singapore or elsewhere. International Judges should not accept

remuneration or payment arising out of or connected with any non-neutral or partisan work.

11. An International Judge may be a member of a representative body or organisation (e.g. Chartered Institute of Arbitrators, International Academy of Construction Lawyers, and International Bar Association).

IMPARTIALITY

General Statement

International Judges must be and must be seen to be impartial in their judicial decision-making.

Guiding Principles

1. International Judges shall carry out their judicial functions without any fear or favour, affection or ill-will to the best of their ability.
2. International Judges should disqualify themselves in cases in which they believe they will be unable, or be perceived to be unable, to judge impartially, unless the failure to hear any such case would necessarily result in irreparable injustice being occasioned to any of the parties in the case or any such other persons to whose interests the International Judges in question may properly have regard.
3. An International Judge should not initiate, permit or consider any *ex parte* communication concerning any pending proceedings in the SICC with any party or counsel in the absence of the other parties or counsel, or with any witness in the absence of the parties or their counsel, unless: (a) the *ex parte* communication relates to an application (without notice) for relief; (b) the consent of the parties to the *ex parte* communication has been obtained; or (c) the *ex parte* communication is authorised or permitted by law.
4. An International Judge who receives an unauthorised *ex parte* communication should: (a) promptly notify the parties of the subject matter and circumstances of the communication; and (b) if requested by any party, allow the parties an opportunity to respond to the communication.

Commentary

1. Unless there is consent by all parties involved, International Judges should disqualify themselves from hearing any case in which they and/or their spouses and/or any immediate family members have any material financial or proprietary interest (whether actual or potential in nature) that could be affected by the outcome of the case, or in which that financial or proprietary

interest would give rise to a reasonable perception that they would not act impartially. The term “financial or proprietary interest” includes any beneficial ownership in company shares or other forms of property, whether held in the names of the International Judges themselves, or in the names of their spouses or immediate family members.

2. International Judges should disqualify themselves from hearing any case in which any one of the parties is represented by a law practice in which they practised at any time so long as any financial connection continues to exist between them and any such law practice. International Judges should also consider disqualifying themselves from hearing any such case until a period of one year has passed since any such financial connection came to an end or so long as there are any non-financial connections between them and any such law practice which could give rise to a reasonable apprehension of bias.
3. International Judges with prior private practice experience should consider disqualifying themselves from hearing any case in which any one of the parties is a former client for whom they have acted or given any legal advice whilst in private practice within the preceding 5 years or for a longer period where there has been a close and long term relationship with that party in the past.
4. International Judges who are former officers of any governmental service or organisation should consider disqualifying themselves from hearing any case which involves the governmental service or organisation of which they were a former officer or in which a party is represented by a legal officer from that governmental service or organisation, unless a period of at least one year has passed since they left that governmental service or organisation, and provided there are no other surviving factors in respect of that governmental service or organisation which could give rise to any reasonable concern of actual or perceived conflict of interest on the part of the International Judges.
5. International Judges should consider disqualifying themselves from hearing any case in which there could reasonably be a public perception of their lack of impartiality by virtue of their spouses’ and/or immediate family members’ political activity or affiliation.
6. Where International Judges feel that their relationships with any individual (particularly any advocate) involved in a case is such that would reasonably

give rise to an appearance of a lack of independence or impartiality on their part if they were to hear the case, they should disqualify themselves from hearing the case. On the rare occasion when the relationship is so close as to be akin to a familial relationship, the International Judges concerned should disqualify themselves from hearing all cases in which the individual concerned is involved.

7. Wherever possible, any decision made by International Judges to disqualify themselves from hearing any case should be made as early as practically possible before the hearing itself, so as to minimise the number of instances where such a decision cannot be made without first making (in appropriate cases) the relevant disclosures and inviting submissions from the parties in the case.

INTEGRITY AND PROPRIETY

General Statement

International Judges must conduct themselves properly and with integrity in a manner that does not undermine public confidence in the Judiciary.

Guiding Principle

1. International Judges should strive, at all times, to conduct themselves in a manner that is consistent with high judicial office and avoids any ground for criticism.

Commentary

1. International Judges should accord all parties who appear before them in court due respect, civility, patience and dignity.
2. International Judges should maintain a professional and collegiate relationship with their judicial colleagues and staff. Undue criticism levied against other judicial colleagues and staff should be avoided, save for objective and fair comments necessary to either advance the interests of the law or to promote the smooth operation of the Supreme Court of Singapore (including the Singapore International Commercial Court SICC).
3. Before an International Judge acting in any official but non-judicial capacity in Singapore participates in any discussions directed at making a selection or exercising a discretion, he or she must make proper disclosure to any others who may be involved in the discussions of any relationship he or she may have with any individual who is likely to be affected by the outcome of the discussion which is of such proximity that it would reasonably give rise to an appearance of impropriety. If the selection is to be made or if the discretion is to be exercised by the International Judge alone, then he or she must make such disclosure to the Chief Justice.
4. International Judges are under constant public scrutiny and must scrupulously respect, obey and abide by the law. They should be mindful that they should

avoid committing even minor transgressions because these may well raise doubts as to their integrity and in turn reduce the standing of the Judiciary in the eyes of reasonable and fair-minded persons.

5. Although International Judges possess the same rights and freedoms as any other private citizen, they must necessarily accept some restrictions on their private lives by virtue of their judicial office. They must ensure that their behaviour in public is proper at all times as well as arrange their private affairs, engagements and associations properly and responsibly, all of which may seem relatively cumbersome to any other private citizen. If in doubt whether a particular item of conduct or activity is proper or may bring into question the integrity of the International Judge and may in turn cause the Judiciary to fall into disrepute, it is prudent either to avoid that conduct, or alternatively to seek appropriate consultation with the Chief Justice before engaging in that conduct or activity.
6. International Judges should exercise caution and restraint in expressing their views in the context of social media which may give the appearance of prejudice, bias or undue influence or may compromise the independence, impartiality, integrity, propriety, dignity, diligence or confidentiality of the SICC.
7. International Judges should never use or allow their judicial office in Singapore to be used to gain an advantage for their own personal interests, or that of their families or relatives, or that of anyone else.
8. International Judges should endeavour not to be litigants (whether represented or in person) or witnesses (whether with or without subpoena) in any court of law in Singapore and, in the event that this becomes unavoidable, should inform the Chief Justice as soon as is practicable.
9. International Judges should manage their affairs so as to ensure that they are at no point financially embarrassed.
10. Related commentary can be found in the next section on “Dignity”.

DIGNITY

General Statement

International Judges must uphold the dignity of the Judiciary and their judicial office at all times.

Guiding Principles

1. International Judges should stay free from all forms of involvement in any activity that may unnecessarily subject the Judiciary in Singapore or their judicial offices in Singapore to attack by members of the public.
2. International Judges should refrain from all other forms of engagement or activity that may undermine the dignity of the Judiciary in Singapore or their judicial offices in Singapore in the eyes of the public or that may bring disrepute to the Judiciary in Singapore or their judicial office in Singapore.

Commentary

1. International Judges must cease all partisan political activities in Singapore (if any) upon appointment and should refrain from conduct that could reasonably give rise to the appearance that they are engaged in any such activity.
2. International Judges are free to participate in civic, charitable and religious activities subject to the following non-exhaustive considerations:
 - a. they should avoid any activity or association in Singapore or any other country that could reflect adversely on their impartiality or interfere with the performance of judicial duties in Singapore;
 - b. they should not solicit funds in Singapore (except for appropriate Singapore judicial purposes);
 - c. they should not lend the prestige of judicial office in Singapore to any solicitations of funds;

- d. they should avoid involvement in causes of organisations that are likely to be engaged in litigation in Singapore; and
 - e. they should not give any legal or financial advice in Singapore or relating to cases likely to be litigated in Singapore.
3. International Judges may permit the use of their names and titles as a reference, and provide personal recommendations for any person upon request by a prospective employer, office appointment authority or tertiary education admissions office.
4. Where International Judges accept invitations to deliver speeches, lectures, and written papers in a public forum or to participate as a panellist or moderator at conferences, seminars or other discussions in a public forum in Singapore or that touches upon the Singapore Judiciary or Singapore law, they should notify the Chief Justice at the earliest practicable opportunity, except where such participation was specifically assigned and requested by the Chief Justice, or where the only matters touching upon the Singapore Judiciary that the International Judges will mention are matters concerning the SICC as a dispute resolution forum.
5. International Judges delivering extra-judicial speeches, lectures or written papers or participating at conferences, seminars or other discussions in a public forum should not comment, or make any remarks capable of being reasonably understood by the public as making any comment, on any aspect of any case which is pending before the Supreme Court of Singapore (including the SICC) or which may come before the Singapore courts.
6. International Judges may receive token gifts, awards or benefits from external parties as appropriate to the occasion on which it is made provided that such gifts, awards or benefits cannot reasonably be perceived as intended to influence them in the performance of their judicial duties in Singapore or otherwise give rise to any appearance of lack of impartiality. In any case, International Judges should declare all gifts, awards or benefits (except those of *de minimis* value) received from external parties in Singapore to the Office of Public Affairs of the Supreme Court of Singapore.

DILIGENCE

General Statement

International Judges must be conscientious in all aspects of their work and in the discharge of their judicial functions.

Guiding Principles

1. International Judges should ensure (as far as is possible) the timely hearing of their cases and matters.
2. International Judges should (as far as is possible) deliver timely decisions and should give reasoned judgments to enable parties, appellate courts and readers generally to understand why a decision has been reached in a certain way.

Commentary

1. International Judges should be mindful that their primary function is to hear cases and that they should not decline to do so except for legitimate and justifiable reasons. They should also give adequate attention to non-judicial work assigned to them, in so far as that work is essential to the smooth running of the Supreme Court of Singapore (including the SICC).
2. International Judges should be prepared for hearings and should employ a conscientious attitude towards the hearing of cases fixed so as to ensure the fair, just and expeditious disposal of all hearings within the allocated hearing time.
3. International Judges must be decisive. Much as they should take time to reach a considered decision, International Judges should also strive to render their decisions in a timely manner. It bears emphasising that justice hurried is justice buried and that justice delayed is justice denied; a balanced approach at all times is therefore imperative.
4. International Judges should communicate clearly how they arrive at their decisions. Brevity is generally encouraged and prolixity in judgments should be avoided, with the caveat that their grounds of decision must be sufficiently

reasoned for parties, appellate courts, and readers generally to fully understand why a case has been decided in a certain way.

CONFIDENTIALITY

General Statement

International Judges must, at all times, keep strictly confidential all non-public information which is internal to the Judiciary and their judicial office.

Guiding Principles

1. International Judges shall not use or disclose any confidential information acquired by them in their judicial capacity for any purpose not related to their judicial duties.
2. International Judges must take all reasonable steps to ensure that all documents and articles in their possession, as well as recorded or stored confidential information acquired by them in their judicial capacity are safe and secure from any form of unauthorised access or use by any person.

Commentary

1. International Judges may share information that is otherwise confidential with other judicial officers or staff of the Supreme Court of Singapore, but only as may be necessary for proper assistance to be rendered to them in the discharge of their judicial duties and functions.
2. International Judges should securely dispose of all confidential documents upon retirement or cessation of their office.
3. International Judges should continue to keep strictly confidential any knowledge of confidential information after retirement from, or cessation of, their office.

POST-JUDICIAL ACTIVITIES

General Statement

Former International Judges must avoid any activities that may bring the judicial office into disrepute or put at risk the public expectation of judicial impartiality, independence and integrity in Singapore.

Guiding Principles

1. Former International Judges must avoid any activities which may tarnish the Singapore Judiciary in terms of impartiality, independence and integrity given that they may still be regarded by the general public as representatives of the Singapore Judiciary.
2. Former International Judges must be sensitive in their involvement in any commercial or other activities which may harm the standing of the Singapore Judiciary.

Commentary

1. Former International Judges, if practising in Singapore, must comply with the Law Society rules like any other lawyer.
2. Former International Judges should remind their clients to refrain from engaging in activities that may be perceived as leveraging on the judge's former status to advance the client's interests.
3. It is generally permissible for Former International Judges to retain the use of the title "The Honourable" and to have his or her former status *per se* be mentioned in marketing materials. However, Former International Judges should avoid participating in any marketing activities which may give rise to the appearance that they are touting or using the prestige of their former offices to attract business, gain advantage or suggest qualitative superiority over other lawyers or any kind of influence or favoured relationship with the Singapore Judiciary.

4. Former International Judges should securely dispose of all confidential documents upon retirement or cessation of their office. Former International Judges should continue to keep strictly confidential any knowledge of confidential information after retirement from, or cessation of, their office (see paragraphs 2 and 3 of the Commentary on “Confidentiality”).