



The Future of Dispute Resolution in Singapore

The past year has been one of new records and new peaks for dispute resolution in Singapore.

- Singapore and the Singapore International Arbitration Centre (SIAC) moved up the ranks again in the recently released 2018 International Arbitration Survey by Queen Mary University of London and White & Case:
- Singapore is now the 3rd most preferred seat of arbitration globally, up from 4th in 2015.
- SIAC is now the 3rd most preferred arbitral institution globally, up from 4th in 2015.
- This means that Singapore and SIAC are now the top seat and institution in Asia respectively.

These are excellent achievements. They bear testament to Singapore's strong brand name as a trusted and neutral venue for international commercial dispute resolution.

What opportunities lie ahead? How can Singapore and the dispute resolution community seize these opportunities? How much further can we go?

These were some of the questions that I addressed in my speech at the Gala Dinner of the SIAC Congress 2018, which focused on the "Future of Arbitration". My speech can be found at www.mlaw.gov.sg. Minister for Finance Heng Swee Keat also touched on these issues in his speech at the SIAC Congress, which can be accessed at www.gov.sg.

The Asia Story

Asia's growth augurs well for dispute resolution in Singapore.

Asia's rise has been steady and rapid, in spite of uncertainties in the global trading environment. Asia is expected to grow at over 6.0% this year, more than double the expected growths of other regions in the world¹.

As the centre of economic gravity shifts to Asia, we will see:

- Local companies internationalising.
- International companies expanding their reach to Asia, to meet the needs of growing markets.
- An increase in cross-border commercial activities involving Asian parties, which will lead to potential cross-border disputes, and an increase in demand for efficient and reliable dispute resolution services to resolve these disputes.

The demand for dispute resolution will be boosted as Asia builds infrastructure to support its growth. Over USD 1.7 trillion per year of infrastructure is needed from 2016 to 2030².

¹ Asian Development Bank, Asian Development Outlook 2018, April 2018. .

² Asian Development Bank, "Asia's Next Infrastructure Boom", September 2017.



A: Minister for Finance Heng Swee Keat with SIAC CEO Lim Seok Hui and SIAC Registrar Delphine Ho.

B: Minister for Finance Heng Swee Keat delivering the Opening Address at the SIAC Congress.

C: The Honourable The Chief Justice Sundaresh Menon speaking at a panel with SIAC Court Member Lucy Reed and SIAC Board Member Chelva Rajah SC.

D: SIAC Court Member Professor Lawrence Boo speaking at a panel.

Photos: Ministry of Finance

- Infrastructure projects tend to be capital-intensive, long-term and complex endeavours. Infrastructure disputes therefore tend to be high-value.
- Infrastructure itself enables commerce, facilitates trade and generates cross-border transactions, which in turn result in more commercial disputes.

As a global node situated in the heart of Asia, Singapore is well positioned to meet the rising need for dispute resolution services.

A Vibrant Ecosystem for Dispute Resolution

Over the years, we have built up a vibrant ecosystem with the right elements to cater to the growing demand from international parties for dispute resolution services. We are a jurisdiction known for rule of law and neutrality, with a stable and efficient legal system. This makes us a natural venue for disputes to be resolved. We have made available a full suite of dispute resolution options for users to select from, depending on their needs and preferences.



Arbitration

SIAC has a solid reputation as a provider of world-class arbitration services.

- It is experienced in handling cross-border cases, with over 80% of its cases being international, and a record-breaking caseload of 452 fresh filings in 2017.
- Parties arbitrating with SIAC have access to an international panel of over 400 reputable arbitrators from over 40 jurisdictions, including those with expertise in infrastructure-related sectors, such as energy and engineering. Users also have the flexibility to select off-panel arbitrators.

Singapore also takes an open and inclusive approach to arbitration, and is home to top international institutions, such as the International Court of Arbitration of the International Chamber of Commerce (ICC-ICA), and the Permanent Court of Arbitration (PCA).

As Singapore is a party to the New York Convention, arbitral awards issued here can be enforced globally, in other jurisdictions which are parties to the Convention.

Litigation

We set up the Singapore International Commercial Court (SICC) in 2015 to cater to users who prefer the features of litigation and a court-based process.

- The SICC provides a neutral forum for commercial litigation for parties with little or no connection to Singapore, including for disputes that may be governed by foreign law.
- It has been a trailblazer for international commercial litigation in Asia, having heard 21 cases of diverse subject matters in its first three years, involving parties from various jurisdictions.
- Cases are heard by eminent international jurists from around the world.

SICC judgments benefit from cross-border enforceability through the Hague Convention on Choice of Court Agreements and other reciprocal agreements.

Mediation

Recognising that mediation is complementary to arbitration and litigation, we set up the Singapore International Mediation Centre (SIMC) in 2015 to provide users with a non-adversarial approach to resolving disputes, completing the trio of dispute resolution services that parties can avail themselves of.

- SIMC today offers innovative and high-quality international commercial mediation services, including the Arb-Med-Arb Protocol, jointly administered with SIAC, which has been very well received by parties.

Singapore: A Gateway for Dispute Resolution

The Singapore ecosystem benefits from and enhances our position as an international commercial, financial and legal services hub.

Today, Singapore is home to all the players which are critical to the successful resolution of a dispute: institutions; arbitrators; law firms; barristers' chambers; professional service and ancillary service providers.



We have been bringing them under one roof for years at Maxwell Chambers, the world's first integrated dispute resolution complex. We are expanding Maxwell Chambers to triple its size and meet the growing demand for dispute resolution facilities in Singapore.

By convening the relevant parties and offering a comprehensive range of options, Singapore can serve as a gateway for the dispute resolution needs of parties from around the world, especially as their demand for dispute resolution services rises in tandem with Asia's growth.

The Singapore Approach

The question which was widely debated at the SIAC Congress was whether arbitration will retain a pre-eminent position in the future of dispute resolution.

These questions arose because there have been concerns with some features of arbitration, such as costs, and the lack of the right of appeal, despite this being a hallmark of arbitration.

Arbitration needs to address these concerns to survive and thrive in the future.

On Singapore's part, we have taken a pro-active approach in responding to these issues, by addressing the varied demands of commercial users.

- We have consciously offered a full range of options for users to select from, be it arbitration, litigation or mediation.
- Users who prefer the right of appeal (unless parties agree otherwise) under a court-based process can refer disputes to the SICC; users who prefer finality can arbitrate at SIAC; and users who prefer an amicable approach can mediate at SIMC.
- We constantly review our laws to ensure they remain up to date. We introduced a legislative framework for third-party funding in 2017, in response to feedback that there is demand for this in international arbitration.
- We are actively involved in multilateral discussions that will push the frontiers of dispute resolution, by providing for or strengthening the international enforceability of settlement agreements and court judgments.

In this way, the Government has been enhancing the ecosystem and putting in place the structures that are conducive for dispute resolution. But we also need strong institutions and practitioners to build on this framework, and stay ahead of the pack.



A: Group photograph with SIAC Chairman Davinder Singh SC, SIAC CEO Lim Seok Hui and Members of the SIAC Board of Directors.

B: In conversation with SIAC Court Members Toby Landau QC and Lucy Reed.

C: SIAC Court Member Claudia Annacker speaking to guests over cocktails before the SIAC Congress Gala Dinner.

D: Group photograph at the SIAC Congress Gala Dinner.
Photos: SIAC

SIAC is a salient example of how an institution has changed with the times to seize opportunities, and remained on top of the game by being responsive to clients' needs.

- SIAC has become a truly international institution, and ventured abroad with new offices in Shanghai, Seoul, Mumbai and Gujarat to better serve its users.
- It has remained at the cutting edge of arbitration by introducing new innovations.
- It was the first institution in Asia to introduce an Emergency Arbitrator mechanism, to plug a gap when users needed urgent relief before the constitution of a Tribunal.
- It launched dedicated Investment Rules last year which take into account the special features of investment arbitrations.

By positioning ourselves to seize opportunities internationally and by constantly innovating, we will be able to secure a place for ourselves in the future of dispute resolution.

The Next Chapter

Singapore's ability to serve the dispute resolution needs of parties around the globe can enhance our relevance as a global-Asia node linking Asia and the rest of the world.

In other words, dispute resolution, including arbitration, is a key element of the next chapter of the Singapore story, and you all have a part to play in it.

By working together, we can take dispute resolution in Singapore to break new records and scale even greater heights! ■

