

## BACKGROUND BRIEF ON INTERNATIONAL ARBITRATION IN SINGAPORE

### (A) Introduction

1. International arbitration<sup>1</sup> involves high value-added legal services, and is a significant growth area because of the strong economic growth in Asia. Unlike other kinds of work which are geographically bound to certain economies and jurisdictions, arbitration by its nature is extremely flexible and mobile. As such, there is a lot of potential for Singapore to capture work in this area arising from commercial activity in the region.
2. Singapore has many natural advantages as a venue for international arbitration. Our geographical proximity to key Asian economies such as India and China leads to a significant number of arbitration cases coming here.
3. We have also sought to create an environment that is not only conducive, but also attractive for arbitration hearings to be held in Singapore. A 2007 report published by the International Chamber of Commerce-International Court of Arbitration (ICC) ranked Singapore as the top city in Asia for ICC arbitrations and one of the five most popular ICC arbitration venues since 2000, alongside Paris, London, Geneva and Zurich.

### (B) Legal Framework

4. Singapore is a signatory to the New York Convention and arbitration awards from Singapore are enforceable in over 140 countries across the world. Our legal framework and laws support international arbitration and align with international practices. In this regard, we are constantly reviewing our arbitration laws to ensure that it supports the growth and development of international arbitration practice in Singapore.

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#### <sup>1</sup> About International Arbitration:

Arbitration is a confidential enforceable method of resolving disputes. The process differs from court proceedings in that it arises out of an agreement between the parties (usually embodied in an "arbitration clause" within a commercial contract, where the parties agree that any dispute arising out of the contract will be resolved through arbitration) and court rules and procedures do not apply to the arbitration itself. The arbitration tribunal may consist of legal experts or lay persons who are experts in their respective fields.

An arbitration is generally considered international in nature where the parties involved are from different countries, or where the obligations of the commercial relationship are substantially performed or most closely connected to a country other than where the parties' businesses are based.

International arbitration can take place on an "ad hoc" basis (i.e. the entire arbitration process including appointment of arbitrators to preside over the case is totally organized by the disputing parties themselves) or "institutional" basis (i.e. the arbitration process, including arbitrator appointment is administered and handled by an arbitral institution such as the Singapore International Arbitration Centre).

5. The Singapore Courts are also very supportive of the arbitration process with a history of minimal judicial intervention, an emphasis on party autonomy and consistent support of the finality of the arbitral award. This has been a major factor in making Singapore an attractive forum for international arbitration.

6. Parties who arbitrate in Singapore are free to engage lawyers of any nationality and use any governing law, and not just Singapore-qualified lawyers or Singapore law. We have also introduced other measures to facilitate arbitration work being done here such as exempting income earned by foreign arbitrators from tax, introducing a tax incentive scheme for arbitration work for law firms, and facilitating the easy entry of foreign arbitrators and counsel into Singapore for their arbitration proceedings.

### **(C) Amendments to the International Arbitration Act**

7. The Ministry of Law is proposing amendments to the International Arbitration Act (IAA), which provides the legislative framework for Singapore's international arbitration regime. The IAA is based on the UNCITRAL<sup>2</sup> Model Law of 1985, which reflects established practices worldwide on key aspects of international arbitration.

8. The legal infrastructure for arbitration in Singapore is already very well developed and widely praised by the international community. This has been a key contributing factor in Singapore having developed the reputation as being a top arbitration venue. Nonetheless, changing business trends globally require us to constantly fine-tune our laws and rules.

9. In 2006, the UNCITRAL Model Law was amended after much discussion in the international arbitration community. The Ministry of Law has reviewed these amendments in consultation with experienced arbitrators and arbitration counsel within the industry to keep our IAA at the cutting edge. The proposed refinements form part of our continuing effort to move quickly to keep Singapore ahead as a top international arbitration centre, particularly in the areas of impartiality, efficiency, efficacy and reliability.

### **(D) Arbitral Institutions based in Singapore**

10. Parties who seek to arbitrate in Singapore have access to top international arbitral institutions which have chosen to base here, such as the American Arbitration Association's International Centre for Dispute Resolution (ICDR) and the Permanent Court of Arbitration (PCA). We also have our own Singapore International Arbitration Centre (SIAC), whose clauses and reputation are gaining ground internationally.

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<sup>2</sup> United Nations Commission on International Trade Laws

## The Singapore International Arbitration Centre

11. The SIAC is Singapore's flagship arbitration centre. It is an independent, not-for-profit organisation and was established in July 1991 to meet the demand from the domestic and international business community to provide a neutral efficient and binding alternative to courtroom litigation in Asia. The SIAC has over 250 arbitrators on its panel from 28 countries.

### *(i) SIAC's Board*

12. A new SIAC Board was appointed in March 2009 comprising nine leading arbitrators and arbitration counsel. The new Board is chaired by Professor Michael Pryles, a leading Australian arbitrator ranked in the top 20 arbitration specialists in the world. Mr Sundaresh Menon, one of Singapore's foremost lawyers in commercial litigation and arbitration as well as construction law serves as Deputy Chairman. The recent appointments to SIAC's Board bring additional international expertise to SIAC and further boost its reputation as a premier international institution.

13. The new Board of Directors, comprising eminent arbitrators and arbitration counsel from the US, UK, Switzerland, Australia, India, Korea and Singapore, will chart the strategic vision and direction of the SIAC in its next phase of development. They bring a wealth of international arbitration experience. They also represent diverse perspectives, with experience in established commercial centres with well-developed traditions of arbitration, as well as regions which are growth areas for business and commerce.

## **(E) Arbitration Facilities and Infrastructure in Singapore**

14. MinLaw is developing an integrated arbitration complex, called the Maxwell Chambers, which would provide world-class hearing rooms and facilities (e.g. transcription and video conferencing) for dispute resolution. At the same time, top international arbitration institutions which come to Singapore will be co-located in the complex. This will provide a one-stop solution to arbitration users and give a major boost to Singapore's attractiveness as an arbitration venue. Maxwell Chambers is scheduled to be ready by August 2009.

15. Maxwell Chambers has secured the presence of several key international arbitration institutions to base in the complex. Tenants within this new complex include arbitral institutes such as the SIAC, ICDR, ICC and the PCA.

## **(F) Key Upcoming Arbitration Conferences to be held in Singapore**

### *(i) Singapore International Arbitration Forum 2010*

16. In January 2010, Maxwell Chambers will be hosting an inaugural Singapore International Arbitration Forum (SIAF) 2010. The SIAF 2010 will bring together some of the world's most respected and influential figures in international arbitration for an open dialogue and exchange of information, best practices, views and insights on critical issues facing the industry around the central theme – "The Future for International Arbitration".

### *(ii) International Council for Commercial Arbitration Conference 2012*

17. In May 2009, an SIAC delegation led by SIAC Deputy Chairman Sundaresh Menon SC attended the International Council for Commercial Arbitration (ICCA) in Vienna and successfully presented a bid to host the ICCA Conference in Singapore in 2012. The ICCA is a well established forum for international arbitration experts. It will be the first time since 2003 that the ICCA Conference will be held in Asia.