

## ANNEX INTERNATIONAL ARBITRATION IN SINGAPORE

### ***Aim***

1. This note provides information on the growth of international arbitration in Singapore.

### ***Introduction***

2. International arbitration<sup>1</sup> is a leading method for resolving disputes arising from international commercial agreements and other international relationships. It is a significant growth area for the legal services sector because of strong economic growth in Asia, especially in China and India.

3. Singapore has several natural advantages as a venue for international arbitration. Our geographical proximity to key Asian economies such as India and China is important. As arbitration often requires a venue that has no relation to the parties, Singapore has thrived as a neutral location for international disputes between parties located in other countries.

4. International arbitration in Singapore has grown since the early 2000s (see [Figure 1](#)). In the last three years, caseloads at the Singapore International Arbitration Centre (SIAC) – including SIAC cases heard at Maxwell Chambers – have doubled relative to levels seen in the 2000s.

5. These statistics do not include arbitrations administered by arbitral institutions other than SIAC, or arbitrations where no arbitral institution is involved (termed within the legal community as *ad hoc* arbitrations). [Figure 2](#) suggests that Singapore law firms are engaged in arbitrations where the processes – such as appointment of arbitrators and fees payable – are governed by a range of arbitral institutions. Anecdotally, the number of *ad hoc* arbitrations has also grown.

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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.

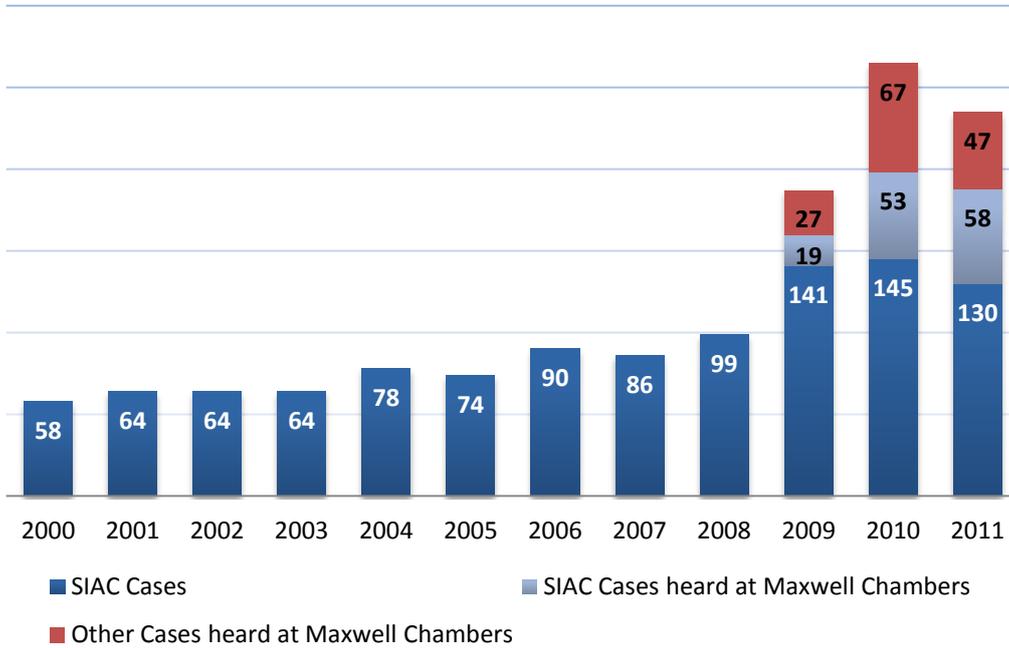
An arbitration is generally considered international in nature where the parties involved are from different countries, or where the obligations of the commercial relationship are substantially performed or most closely connected to a country other than where the parties’ businesses are based.

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 organised 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).

**Figure 1: Total caseloads from both SIAC and Maxwell Chambers**

Source: SIAC and Maxwell Chambers

### Total Caseloads: SIAC and Maxwell Chambers

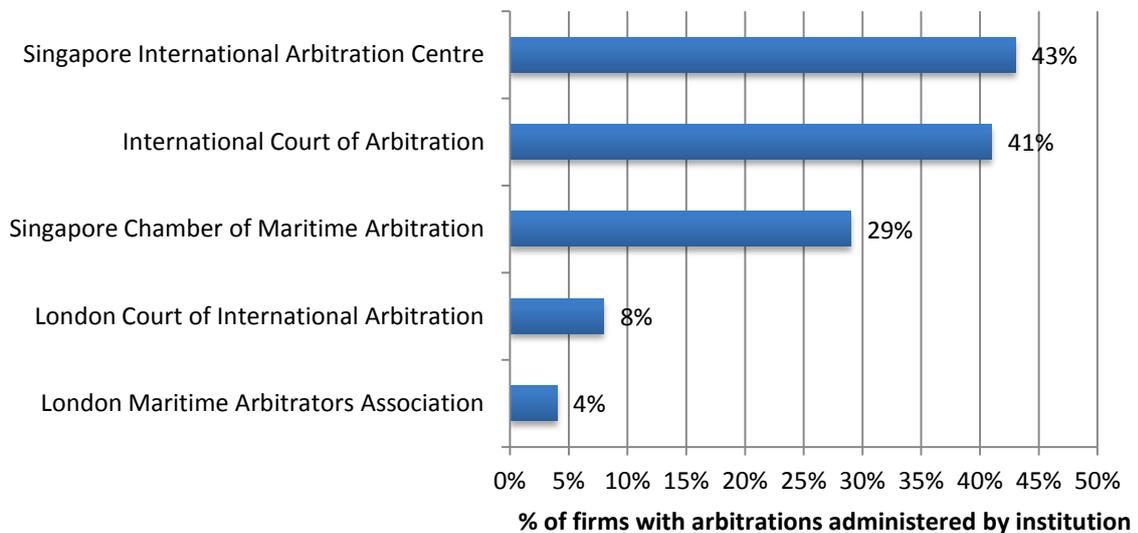


Note: The total number of SIAC cases from 2009 includes both blue and light-blue bars.

**Figure 2: Arbitration institutions used by law firms in Singapore**

Source: Legal Survey 2009

### Top 5 Arbitration Institutions



## ***Positioning Singapore as an arbitration hub***

6. The Ministry of Law (MinLaw), in collaboration with partner agencies and stakeholders, including SIAC, Attorney General's Chambers, Singapore Academy of Law, Law Society and the Courts, has sought to create an environment that is conducive and attractive for arbitration hearings.

7. Judicial philosophy. The Singapore Courts are supportive of the arbitration process with a history of minimal judicial intervention and an emphasis on party autonomy. The Courts have also consistently supported the finality of awards from arbitrations.

8. Openness. Parties who arbitrate in Singapore are free to engage lawyers of any nationality and use any governing law. There is also a tax incentive scheme for arbitration work by law firms.

9. Legislative framework. Singapore is a signatory to the New York Convention, and arbitration awards from Singapore are enforceable in over 140 countries around the world. Our legal framework and laws support international arbitration and align with international practices, and we constantly update and review our legislative framework. The International Arbitration Act – which is based on the UNCITRAL<sup>2</sup> Model Law of 1985 – was amended in 2009, and will be again amended in 2012.

10. Infrastructure. Maxwell Chambers, a first-of-its-kind integrated dispute hearing facility, was opened in Jan 2010, providing world-class hearing rooms and facilities for dispute resolution, and co-locating key arbitration institutions. It has helped to anchor Singapore as the region's leading centre for international arbitration, and was shortlisted by Global Arbitration Review (GAR) as one of the "Best Developments" in the arbitration industry in 2010.

11. Arbitral institutions. We have attracted some of the top arbitral institutions in the world, including the American Arbitration Association, the Permanent Court of Arbitration, the International Chamber of Commerce's International Court of Arbitration (ICC-ICA), the International Centre for Settlement of Investment Disputes (ICSID) and the World Intellectual Property Organization's Arbitration and Mediation Centre, to complement local institutions such as SIAC and the Singapore Chamber for Maritime Arbitration. They are housed in Maxwell Chambers.

12. At SIAC, the present Board comprises 12 arbitrators and counsel who are internationally renowned. Board Chairman, Prof Michael Pryles, is ranked among the top 20 arbitration specialists in the world. SIAC was shortlisted as an "Arbitration Institution of the Year" by GAR in 2010.

13. Arbitrators and arbitration counsel. More than 10 of the GAR top 30 arbitration groups have opened offices in Singapore, including 20 Essex Street, Essex Court Chambers, and Bankside Chambers. Recently, Hanotiau & van den

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

Berg, a well-known arbitration firm from a civil law jurisdiction, opened an office at Maxwell Chambers.

14. Engagement of stakeholders. MinLaw has systematically reached out to arbitration stakeholders, to better understand the needs of the industry. Last November, MinLaw organised the *Arbitration Dialogue 2011*, bringing together top arbitrators and counsel in the Singapore arbitration landscape to discuss and gather feedback on the upcoming changes to the International Arbitration Act.

### ***Taking stock of progress***

15. A 2010 survey by White & Case found that after London and Geneva, Singapore – together with Paris and Tokyo – were the next most popular seats for arbitration. SIAC was also ranked fourth most popular after traditional powerhouses ICC-ICA, London Court of International Arbitration, and the American Arbitration Association/International Centre for Dispute Resolution, among arbitration institutions.

16. A recent article by *Asian Legal Business* noted that Singapore, “the most popular Asian seat in the 2010 International Arbitration Survey, is seriously challenging Hong Kong’s title.”<sup>3</sup>

17. Another article by *Legal Business* quotes an Essex Court Chambers barrister: “One of the remarkable things about Singapore and those behind it, is the rapidity in which it innovates and emulates to serve the growing demand... the pace of growth in arbitration is far more likely to be steeper in Singapore than other centres.”<sup>4</sup>

### ***Next steps***

18. In order to continue to grow and sustain our mindshare in the international arbitration space, MinLaw and its partner agencies and stakeholders regularly conduct arbitration roadshows in the region to raise Singapore’s profile as an arbitration venue.

19. In addition, the International Council for Commercial Arbitration (ICCA) is holding its 21<sup>st</sup> Congress in Singapore from 10 to 13 June 2012, the result of a successful bid led by then Deputy Chairman of the SIAC, Sundaresh Menon. The Congress is the world’s biggest and most influential arbitration congress, and over 800 leaders in arbitration are expected to be in Singapore during the four-day event. The Prime Minister will be gracing the opening ceremony, and highlights of the programme will include a gala dinner and a dinner hosted for the ICCA Council by the President of the Republic of Singapore.

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<sup>3</sup> “South-East Asia,” *Legal Business*, July/August 2011

<sup>4</sup> “Singapore vs Hong Kong: The arbitration battle intensifies,” *Asian Legal Business*, December 2011