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Singapore's Emergence as a Global Centre for Arbitration

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I. Introduction

The Singapore International Arbitration Centre (SIAC) opened a [representative office for the Americans](#) in New York in December 2020, the first one outside of Asia. With a record-breaking announcement that its caseload had crossed the 1,000 mark this year, it leaped [125 percent](#) from the 479 cases filed in 2019, despite its relatively short history compared to established arbitration institutions. Singapore also administers an exceptional number of arbitrations that do not involve local entities and stands out as a neutral venue for the resolution of international commercial disputes. Situated at the intersection of South and East Asia, with highly advanced administrative, financial and legal systems, Singapore has historically gained popularity as a [regional base in Asia for Western firms](#). Maintaining steady foreign relations with the opposing superpower China, particularly in the trade and advancement of technology has allowed it to remain a neutral party in the bipolar global order. This neutrality is reaffirmed by the country's recent judgments and commitments upholding the right to arbitration of disputing parties and enforcing arbitral awards in all but the most extreme cases.

This article traces the emergence of Singapore as a global centre for arbitration. It begins with an analysis of domestic policies that have enabled the country to set up a high-quality arbitral infrastructure. Secondly, it tackles shifts and relations in the international sphere that have created favorable conditions for demand for the country's arbitration centres. It finally analyses the way forward for the country, the suggestions and predictions of scholars in the field, and the method the country must employ to capitalise on them.

II. Developing Arbitration in Singapore

a. Developing Expertise

To develop competence in the field of commercial arbitration, the Singapore Government initially mobilized the expertise of foreign law firms using the country as a base in the Asia Pacific. It encouraged joint ventures between local and foreign firms to train local lawyers in the civil law of various jurisdictions. For their expertise, these firms were offered significant incentives, including practising Singaporean law through the local firm, receiving tax credits, and in the case of the massive arbitration venue Maxwell Chambers, substantial government investment. Diverging from the popular practice of hiring judges exclusively from its own country, Singapore invited ['international judges'](#) from many jurisdictions, thus generating the scope for multi-lingual common and civil law proceedings to be successfully arbitrated. Thus Singapore created a domestic pool of highly skilled arbitrators.

b. Developing Confidence

In order to supplement efforts at the international level, subordinate courts have taken impressive strides to integrate alternate dispute resolution into the domestic court system. For example, the Singaporean judiciary instituted a [Primary Dispute Resolution Centre \(PDRC\) nearly twenty years ago](#) for providing the option of mediation to parties in motor accidents and personal injury cases that reached lower courts. This allowed citizens to circumvent lengthy and costly trials to resolve simple civil claims. Simultaneously, it introduced a culture of mediation alternative to the traditional court system, with citizens having a level of familiarity with alternate dispute resolution far greater than most jurisdictions across the world. [Singapore's Practice Directions](#) (issued by the courts to regulate practice and procedure) were eventually [amended](#) to provide that all civil disputes must be considered for mediation. Parties may face [costs sanctions](#) if they refuse to comply with a direction by the judge managing the pre-trial. These measures are especially important because most Singaporeans and residents encounter the law at this primary level. These mandatory procedures develop confidence in alternative dispute resolution as a viable mechanism to guarantee fair and affordable justice, and thus also serve to garner support for the country's broader agenda of establishing itself as a global hub for arbitration.

c. Developing Laws

Prudent and constant revisions to the original law governing arbitration demonstrate the Singapore Government's dynamic responses to complex considerations. For example, of two historically [interchangeably](#) used terms, 'privacy' refers to the closed-door policy of international arbitration that disallows third parties from attending arbitral hearings and conferences, while confidentiality, refers to [non-disclosure of specific or all information in the public domain](#). Privacy does not necessarily imply confidentiality. However, both are insisted upon in all SIAC proceedings. It ensures that legal complications or the divulgence of certain information in one sector do not hamper prospects or profits in another. Despite the desirability of this stipulation, [key jurisdictions' arbitration acts vary dramatically](#) with regard to mandatory confidentiality of international arbitration. The United States and the United Kingdom recognise it only implicitly, while most other countries grant no such provision without an existing clause in the arbitration agreement. However, following a public consultation in 2019, the [Singapore's Law Ministry](#) recognised the High Court's power to strictly enforce confidentiality obligations during arbitration, including non-disclosure of parties' identities and potential sealing of documents. The all-inclusive and indiscriminate nature of this policy, eliminating the need for additional steps to secure the same, is a significant benefit of international commercial arbitration in the country. Similarly, in early 2021, Singapore's Ministry of Law approved the [Civil Law \(Third Party Funding\) Regulations](#), allowing a third party to fund the arbitration proceedings of a dispute it is not connected to. Third-party funding increases a party's versatility, leads to better management of disputes, and also enables economically disadvantaged entities with strong claims to be better positioned to pursue their proceedings. It helps companies [manage financial risk](#) by allowing capital that would otherwise be spent on legal fees to be allocated to other areas of their business during the proceedings.

In conjunction with confidentiality laws, Singapore has created an ideal environment for the majority of international parties unwilling to publicise the nature and matter of their international disputes.

d. Developing International Accreditation

Further, the SIAC ensured that internationally ratified standards constituted the foundation of the domestic legal and administrative frameworks for alternative dispute resolution. The United Nations Commission on International Trade Law (UNCITRAL) developed a ['Model Law'](#) to aid States in reforming their arbitral laws and creating uniformity across jurisdictions. It was effectuated in Singapore under the International Arbitration Act (IAA). The two separate legal regimes instituted under the IAA are distinguished primarily by the degree of court intervention in the arbitral process. Parties exercise sole discretion in selecting a particular regime through mutual agreement, allowing them valuable flexibility in each unique circumstance. Further, the SIAC has promoted the adoption of summary procedures, which enable arbitral tribunals to dispose of unmeritorious cases. Traditionally avoided due to a lack of a procedure for appeal for cases dismissed via this procedure, the SIAC expressly encourages this to prevent the misuse of resources and personnel on fruitless proceedings. This determination also serves as a testament to the faith of Singaporean courts in the quality of appellate arbitral courts.

e. Developing a Balance

Although the judiciary strongly supports arbitration in Singapore, this does not lead to unquestioning or undiscerning deference to the decisions of arbitrators. While preserving the spirit of the Model Law in preventing any unnecessary interference in international arbitral proceedings, the courts recognize that an award that [conflicts with the public policy](#) of the State or is induced by fraud or corruption must be set aside. Therefore, despite the massive influx of high-profile, economic disputes adjudicated in the country, this active protection of local interests ensures that Singaporeans do not bear the brunt of any negative repercussions, and are committed to the continuing excellence of their arbitration services.

III. Global Geopolitics

The increase in the number and complexity of disputes in Asia is fuelled by rapidly growing economies and subsequently increased trade, augmented inter-governmental economic cooperation through forums such as the Association of Southeast Asian Nations (ASEAN), and expanding operations of Western multinationals in these massive markets.

For example, against the timely backdrop of China's ambitious Belt and Road Initiative in Asia and Africa, Singapore launched the [Beihai Asia International Arbitration Centre](#) (BAIAC), in 2019 with a commitment to focus on disputes arising from the project. Spanning sixty-eight countries and approximately 40% of the global gross domestic product, the exclusive resolution of the multilateral disputes arising from this massive infrastructural endeavour serves to further establish Singapore as a cornerstone of international arbitration. Simultaneously, a Memorandum of Understanding was signed with the China Council for the Promotion of International Trade ('CCPIT') to similar effect for various other Chinese businesses. This, therefore, ensures a steady flow of mediation business from the economic superpower, alongside experience and involvement in a wide range of disputes across the globe.

The Singaporean government thus strategically capitalised on the country's location at the nucleus of this growing market for commercial arbitration by tailoring an efficient forum for the resolution of the naturally resulting contestations.

IV. Conclusion

Professor Gary Bell from the National University of Singapore emphasizes his Government's priority in advancing the preferred site of [a hub for legal services](#), across and beyond Southeast Asia. It is the Singapore as a [hub for legal services](#) due to its consistent political and legal stability, wide selection of experienced arbitrators, and strict adherence to international standards of conduct. The Singapore International Commercial Court was established in 2016 to augment the SIAC's global arbitration presence, a testament to the massive demand for these services. Even as they grappled with stringent lockdown measures during the Covid-19 pandemic, the country's swift transition to remote hearings has entrenched their position as leaders in this field.

Within days of national lockdowns being declared, the SIAC had published a [series of notices](#) concurring with the latest regulations. It was among the first transition to completely virtual platforms with guidelines for using a dedicated case management email for e-filing and e-payment purposes. Singapore has harnessed the advantages of location, non-partisan foreign policy, legal, political, technical, and economic infrastructure, and a skilled and growing workforce, to emerge in 2021 as [Asia's most popular, and the world's second most popular](#) seat of arbitration.

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