

TOPIC:

ARBITRATION &
DISPUTE RESOLUTION

SCMA AND UPDATED LEGISLATION BOOST MARITIME DISPUTE RESOLUTION

Singapore has been known as a key regional centre of arbitration for many years. Among other reasons for its success, Singapore:

- is an independent, neutral third-country venue;
- is party to the New York Convention, making Singapore arbitration awards enforceable in almost all jurisdictions;
- has a strong tradition of the rule of law;
- has a common law system of case law precedent which is familiar to other Commonwealth jurisdictions;
- combines maximum judicial support for arbitration with minimum intervention;
- provides for freedom of choice of counsel in arbitration proceedings;
- has competent arbitration professionals - lawyers, arbitrators and other experts - from a wide range of jurisdictions;
- has excellent support facilities and services;
- fully protects the confidentiality of arbitration proceedings;
- has arbitration legislation - the International Arbitration Act (Cap 143A) - that gives effect to the United Nations Commission on International

Trade Law Model Law on International Commercial Arbitration;⁽¹⁾ and

- offers arbitration at a lower cost than most other leading arbitration centres.

The general institution for the administration of commercial arbitration in Singapore is the Singapore International Arbitration Centre (SIAC). Established in 1991, it has become one of Asia's premier international arbitral institutions. Its pioneering developments include the creation of a specialist maritime arbitration institute - the Singapore Chamber of Maritime Arbitration (SCMA) - in November 2004.

Singapore Chamber of Maritime Arbitration

In May 2009 the SCMA was re-constituted as a company limited by guarantee and became separate from SIAC. As a result, the SCMA is a non-governmental institute comprising members from many countries and all parts of the maritime sector. A general committee of the membership is in charge of its direction and development.

Institutional arbitration, as conducted through the International Chamber of Commerce and SIAC, is not in keeping with the less

formal arbitration models predominantly used in maritime disputes. The SCMA has implemented a new process and new rules which provide for:

- an arbitration process without formal management, thus dispensing with management fees and bureaucracy;
- a panel of experienced maritime arbitrators with clear *résumés* to assist parties in their choice of arbitrator;
- a free choice of arbitrators, who need not be on the SCMA panel;
- freedom to agree fees with arbitrators - SIAC has a fixed fee schedule;
- free choice of legal representation;
- freedom to choose the law of dispute;
- the designation of Singapore as the location and judicial place of arbitration, unless the parties agree otherwise;
- a small claims procedure for disputes of up to \$75,000 in value; and
- a policy of limiting intervention to the minimum necessary to assist the parties, if they so request.

The SCMA has sought to provide

a framework for maritime arbitration which meets the needs of the maritime sector that it serves. Singapore boasts a maritime arbitration model which is comparable to those available in London and New York, but with the added advantage of a local time zone and shorter travel distances for parties operating in the Asian maritime markets. Singapore's courts are also known for their speed and efficiency, so applications to the High Court in support of arbitration are readily accessible.

Although the International Arbitration Act allows no right of appeal on a point of law, this can prove an advantage in avoiding unnecessarily protracted disputes. London maritime arbitration is often seen as a first step towards issuing an arbitration claim form in the Commercial Court. This merely increases the likely cost exposure of parties to arbitration agreements and does not promote the finality of the arbitration process that the parties have chosen instead of litigation.

Statutory reform

In October 2009 the International Arbitration (Amendment) Bill was passed, which:

- updates the definition of 'arbitration agreement' to include agreements made by electronic communications, such as emails and data messages;
- allows the High Court to grant interim orders or relief (eg, discovery and freezing orders) in aid of international arbitration where the arbitral tribunal cannot do so, irrespective of whether Singapore is the place of arbitration; and
- empowers the Ministry of Law to appoint individuals or entities to authenticate and certify awards made in Singapore.

These developments exemplify Singapore's pro-business approach and its recognition of the need to promote certainty and keep pace with changes in international business. In particular, the development of a specific framework for maritime arbitration has proved valuable to dispute resolution in the shipping sector.

This article was featured in ILO's publication on 27th January 2010.



Office: +65 6223 3893
Mobile: +65 8452 0092
Email: jim@oonbazul.com

T S Oon & Bazul is a leading mid-sized law firm in Singapore.

The firm regularly acts for clients in international arbitrations; commercial dispute resolution; corporate and commercial matters; restructuring and insolvency; fraud and asset tracing; employment law issues; and conveyancing matters. Industry sectors in which our lawyers are especially experienced include shipping, aviation, banking and finance, international trade; insurance and reinsurance; oil and gas; and projects and real estate.

We are a dynamic and enterprising legal practice committed to providing our clients with the highest levels of service. On this foundation, we believe in providing every client with timely, effective and commercially sensible solutions.

36 ROBINSON ROAD
#08-01/06 CITY HOUSE
SINGAPORE 068877
TEL: +65 6223 3893 FAX: +65 6223 6491
EMAIL: general@oonbazul.com

IN ASSOCIATION WITH T S OON & PARTNERS
SUITE 18.4, LEVEL 18, MENARA GENESIS
33 JALAN SULTAN
50250 KUALA LUMPUR
TEL: +603 2148 5200 FAX: +603 2145 3200