

Singapore's Disputes Push Continues



In 2019, Singapore continued its push to develop its reputation as an arbitration hub and a pinnacle for legal technology in Asia – and it broke some pretty big ground in the process, with the first United Nations treaty named after Singapore. The Singapore Convention on Mediation, which allows the enforcement of mediated settlement agreements across countries, triggered widespread interest, and lawyers in the region were quick to celebrate the new law as a testament to Singapore's work in developing its reputation.

The convention was officially enacted into Singapore law this year, coming into force on Sept. 12. It happened at a time when the country continues to fine-tune various laws related to disputes. In early October, Singapore's parliament passed changes to the International Arbitration Act, in part to hold parties accountable for confidentiality obligations. The amendments also outline powers for the High Court and arbitral tribunals.

Edwin Tong, Second Minister for Law, said these changes would serve to strengthen Singapore's international arbitration framework and continue to bolster its pull as an arbitration hub, according to local media. And those watching the market feel more developments in support of the city's arbitration sector may be in the offing.

Suang Wijaya and Chooi Jing Yen, lawyers at Singapore law firm Eugene Thuraisingam, tell Asian Legal Business that the authorities have been "extremely supportive" of the convention.

"There is also high awareness and support for the convention in the legal and business community," the lawyers say, adding that in one to two years they anticipate the Supreme Court will release data on the number of internal settlement agreements that have been recorded as orders of the Singapore High Court, "in the spirit of the convention."

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While there is certainly a lot of optimism around the convention, it is the longer-term payoff that lawyers are really interested in.

"We anticipate an increase in inter-national commercial parties entering into settlement agreements governed by Singapore law, with exclusive jurisdiction clauses in favour of the Singapore courts," Wijaya and Chooi say, noting that there is "strong legislative and judicial support in Singapore towards enforcing international settlement agreements."

And this attraction is only further backed up by the Singapore markets growing reputation in the global arbitration scene.

"Singapore courts also have a strong reputation as a neutral and impartial international dispute resolution forum, whose money judgments are readily enforceable around the world," the lawyers say.

THE COVID EFFECT

COVID-19 has led to quite a shakeup in many different aspects of legal work, from workplace culture to the type of work firms are busy with, and new disputes trends are also emerging as part of this.

Wijaya and Chooi have been charting the developments in the region, and they tell Asian Legal Business that mediation appears to be growing in popularity.

"There will likely be a significant increase in parties resolving their commercial disputes amicably through mediation and settlement agreements. Remote or partly remote hearings in both litigation and arbitration have and will likely continue to be the norm moving forward," they say.

Hearings conducted online have gained significant interest in recent months, as more traditional measures are rendered untenable. The relative ease of these digital hearings has not gone by unnoticed.

"There is a lot of support for mediation efforts to continue or even be stepped up especially in light of the COVID situation as this would reduce the caseload of the courts," Wijaya and Chooi say.

"Virtual mediation has been adopted by all the key mediation providers. One benefit of this is that there is now greater flexibility not just in terms of the timing for the mediation to be conducted, but also in terms of location of the parties (being able to participate from whichever country they are in) which is especially important for cross-border disputes," the lawyers add.

But while the process may have been relatively seamless, Wijaya and Jing are cautious about overstating the success of digital processes prematurely.

"It remains to be seen whether the success rate (measured by whether a settlement is achieved) of a virtual mediation can match that of physical mediation. Anecdotally, we have seen a lower success rate, possibly in part due to the fact that parties might not feel such a strong impetus to compromise when they are mediating from comfort," they say.

PUSHING ONWARD

As Singapore continues to enhance its reputation and round out its capabilities, there is still a sense that the market has more maturing to do – but that it is continuing to take a proactive approach.

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From their perspective, Wijaya and Chooi say more industry support is important for building “deeper connections with the legal and business communities in South East Asia and the broader Asia-Pacific region.”

In the meantime, government-backed initiatives continue to plant the seeds for domestic improvement. Recently Singapore's Ministry of Law launched its Technology and Innovation Roadmap, a 10-year plan aimed at supporting new entrants in the legal sector to embrace technology and innovation.

And this year the government awarded a grant of \$10.8 Million to The Singapore Management University's (SMU's) School of Law for a research programme that focuses on smart contracts and statutes.

This follows similar initiatives to support the domestic development and research of legal tech.

But while stronger links and development will help the region to achieve its ambitions, there is a bright future ahead for Singapore as a disputes hub, – and this is likely to only continue to develop within the coming months.

“Debt recovery cases are likely to rise. In any economic downturn, the market also expects insolvency cases to rise,” the lawyers say, when asked to gauge the market conditions of the near future. However, the Singapore government has largely mitigated this by introducing legislative protections for businesses and individuals whose insolvency is due to the COVID situation, including effectively implementing a moratorium on applications for bankruptcy and winding up,” Wijaya and Chooi say.