DELOS
dispute resolution

GUIDE TO ARBITRATION PLACES (GAP)

SINGAPORE

CHAPTER PREPARED BY

YU-JIN TAY, SI CHENG LIM AND NATALIE WONG
OF MAYER BROWN

MAYER | BROWN

FOR FURTHER INFORMATION

GAP TABLE OF CONTENTS | GAP TRAFFIC LIGHTS FOR ALL JURISDICTIONS | FULL GAP ONLINE

EN DELOS MODEL CLAUSES
ES DELOS CLÁUSULAS MODELO
FR DELOS CLAUSES TYPES
PT DELOS CLÁUSULAS MODELO

SAFESEATS@DELOSDR.ORG | DELOSDR.ORG

JURISDICTION INDICATIVE TRAFFIC LIGHTS

1. Law
   a. Framework
   b. Adherence to international treaties
   c. Limited court intervention
   d. Arbitrator immunity from civil liability
2. Judiciary
3. Legal expertise
4. Rights of representation
5. Accessibility and safety
6. Ethics

Evolution of above compared to previous year =

7. Tech friendliness
8. Compatibility with the Delos Rules

VERSION: 26 MAY 2021 (v01.00)

There have not been any material changes requiring an update to this chapter (including the traffic lights) since the date of the latest version. Nonetheless, please note that this chapter does not constitute legal advice and its authors, the contributing law firm and Delos Dispute Resolution decline any and all responsibility.

IN-HOUSE AND CORPORATE COUNSEL SUMMARY

Arbitration law in Singapore is consistent with the UNCITRAL Model Law regime – it is generally pro-arbitration, premised on minimal curial intervention. Arbitration awards – both domestic and international (generally, where at least one of the parties has its place of business in any state other than Singapore, or the place with which the subject-matter of the dispute is most closely connected is situated outside of the state in which the parties have their place of business) – are readily enforceable before the Singapore courts, which are sophisticated in their understanding of international arbitration jurisprudence.

Despite a principle of minimal curial intervention, where necessary Singapore courts are an avenue for support before, during and after the arbitration process. For instance, parties may apply to the Singapore court for interim measures, such as injunctions, in support of the arbitration.

In 2017, Singapore embraced third-party funding, legalising it for arbitrations seated in Singapore. Parties involved in arbitration (as well as related mediation and court proceedings) may now avail themselves of third-party funding, subject to certain restrictions provided for in the applicable regulations.

Key places of arbitration in the jurisdiction?	Singapore – as Singapore is a city-state.
Civil law / Common law environment (if mixed or other, specify)?	Common law.
Confidentiality of arbitrations?	A recent amendment to the International Arbitration Act (Cap. 143A) in October 2020 empowers arbitral tribunals and the Singapore Courts to enforce confidentiality obligations in arbitrations, where such obligations arise by reason of the parties' agreement, the applicable arbitral rules adopted by parties, or under any written law or rule of law.[1] Further, case law confirms that there is an implied common law duty of confidentiality of arbitrations.
Requirement to retain (local) counsel?	Parties can either retain external counsel or be self-represented. However, in arbitration-related proceedings in court, parties would have to be represented by Singapore-qualified lawyers. International lawyers may represent parties in Singapore-seated arbitrations, even without local lawyers. In the Singapore International Commercial Court (SICC), which hears arbitration-related court cases, accredited foreign lawyers have rights of audience to make submissions on foreign law but Singapore law matters will have to be argued by Singapore lawyers.
Ability to present party employee witness testimony?	Yes, there is nothing in Singapore law that prohibits this *per se*.
Ability to hold meetings and/or hearings outside of the seat and/or remotely?	Yes, permitted if agreed by the parties.

1 See section 12(1)(j) and 12A(2) IAA.

Availability of interest as a remedy?	Yes, there are no restrictions prescribed in respect of the awarding of interest.[2]
Ability to claim for reasonable costs incurred for the arbitration?	Yes, case law confirms that costs are for the arbitral tribunal to decide.
Restrictions regarding contingency fee arrangements and/or third-party funding?	Third-party funding is generally allowed in Singapore-seated arbitrations and related mediation and court proceedings. On the other hand, Singapore-qualified lawyers and registered foreign lawyers are not allowed under applicable professional conduct rules to enter into contingency or conditional fee arrangements in relation to Singapore-related arbitrations (which include Singapore seat or Singapore law governed arbitrations). However, at the time of this report, the Singapore Ministry of Law is conducting a public consultation on whether to permit conditional fee arrangements for international arbitration and whether such arrangements should be regulated.[3]
Party to the New York Convention?	Yes.
Party to the ICSID Convention?	Yes.[4]
Compatibility with the Delos Rules?	Yes, see section 9 below.
Default time-limitation period for civil actions (including contractual)?	For actions in Singapore-seated international arbitrations or domestic arbitrations, founded on contract or tort, the default limitation period is 6 years from the date the cause of action accrued, unless a foreign limitation period applies under the Foreign Limitation Periods Act.[5] For actions before the Singapore courts to enforce arbitral awards in Singapore, the limitation period is 6 years from the issuance of the award.[6]
Other key points to note?	ϕ
World Bank, Enforcing Contracts: *Doing Business* score for 2020, if available?	84.5
World Justice Project, Rule of Law Index: *Civil Justice* score for 2020, if available?	0.79

2 See section 35 AA; section 20 IAA.

3 See sections 7.1 and 8.1 below.

4 Arbitration (International Investment Disputes) Act (Cap. 11).

5 Section 6(1)(a) Limitation Act (Cap. 163) read with section 3(1) Foreign Limitation Periods Act (Cap. 111A), section 8A(1) IAA and section 11(1) AA.

6 Section 6(1)(c) Limitation Act (Cap. 163).

ARBITRATION PRACTITIONER SUMMARY

Arbitration law in Singapore is consistent with the UNCITRAL Model Law regime – it is generally pro-arbitration, and premised on minimal curial intervention. Arbitration awards, whether issued in arbitrations seated in Singapore or in other New York Convention countries, are readily enforceable before the Singapore courts, which are sophisticated in their understanding of international arbitration jurisprudence.

Despite a principle of minimal curial intervention, where necessary Singapore courts are an avenue for support before, during and after the arbitration process. For instance, parties may apply to the Singapore court for interim measures, such as injunctions, in support of the arbitration.

One recent development in Singapore is the legalisation of third-party funding for international arbitrations seated in Singapore. Parties involved in arbitration (as well as related court and mediation proceedings) may now avail to third party funding, subject to certain restrictions as provided for in the regulation: The Civil Law (Third-Party Funding) Regulations 2017 (S 68/2017).

Date of arbitration law?	The arbitration law (i.e. the two relevant statutes: The Arbitration Act and the International Arbitration Act) was last amended in 2016; it continues to be updated by case law. Following a public consultation conducted by the Singapore Ministry of Law in the period of June to August 2019, two of six proposed amendments were tabled before the Singapore Parliament and eventually enacted as amendments to the IAA in October 2020.[7] As part of its pro-arbitration policy, Singapore updates its international arbitration legislation every few years to ensure that they are consistent with developments in practice and users' expectations.
UNCITRAL Model Law? If so, any key changes thereto? 2006 version?	Yes, Singapore has adopted the 1985 UNCITRAL Model Law with some modifications. For example, Singapore has substituted Chapter VIII of the Model Law (which addresses the recognition and enforcement of awards) with Part III of the International Arbitration Act. Although Singapore has not adopted the 2006 UNCITRAL Model Law, it has adopted certain aspects of the 2006 UNCITRAL Model Law in its legislative framework; for instance, the International Arbitration Act was amended in 2012 to adopt the revised definition of an arbitration agreement under the 2006 UNCITRAL Model Law.
Availability of specialised courts or judges at the key seat(s) in the jurisdiction for handling arbitration-related matters?	Yes, there is an arbitration docket at the High Court such that judges experienced in arbitration-related matters are routinely rostered to hear such matters. Since January 2018, the Singapore International Commercial Court (SICC) (which is a division of the Singapore High Court) may also hear international arbitration related cases. The SICC has a bench of international judges from common and civil law jurisdictions, including foreign judges with specialised knowledge of arbitration law.

7 See Section 8.1 below.

Availability of *ex parte* pre-arbitration interim measures?	Yes.
Courts' attitude towards the competence-competence principle?	Wholly supportive.
May an arbitral tribunal render a ruling on jurisdiction (or other issues) with reasons to follow in a subsequent award?	In theory, it is possible for an arbitral tribunal to render a ruling on jurisdiction without reasons first, and provide its reasons later on. First, unlike arbitral awards, jurisdictional rulings are not subject to any express statutory requirement to provide reasons.[8] Second, any appeal against jurisdictional rulings will involve a *de novo* review of jurisdiction,[9] as opposed to an appeal against the tribunal's reasons. In practice, however, tribunals rarely render a ruling without reasons attached. First, if the purpose is to enable the tribunal, in clear-cut cases, to affirm its jurisdiction quickly, and set down timelines for the rest of the arbitration, without being delayed by the need to write reasons, tribunals may reasonably doubt if writing out reasons would cause any significant delay, especially in clear-cut cases. Second, a failure to write reasons may risk giving the losing party an unnecessary string in its bow to challenge the award (or tribunal) on grounds of breach of natural justice.
Grounds for annulment of awards additional to those based on the criteria for the recognition and enforcement of awards under the New York Convention?	In setting aside cases, section 24 of the International Arbitration Act provides that: "*Notwithstanding Article 34(1) of the Model Law, the High Court may, in addition to the grounds set out in Article 34(2) of the Model Law, set aside the award of the arbitral tribunal if — (a) the making of the award was induced or affected by fraud or corruption; or (b) a breach of the rules of natural justice occurred in connection with the making of the award by which the rights of any party have been prejudiced.*" However, the courts have generally interpreted these provisions to be consistent with and not different from the due process and public policy rights already provided for under the Model Law.
Do annulment proceedings typically suspend enforcement proceedings?	Section 31(5) of the International Arbitration Act grants Singapore courts a wide discretion to decide whether to suspend. They will exercise this discretion taking into consideration, *inter alia*, whether the applicant is demonstrably pursuing a meritorious application in the seat, and the likely length of delay to enforcement. Accordingly, the existence of annulment proceedings does not automatically give rise to a right of suspension. In one Singapore High Court case, the court refused to suspend enforcement, notwithstanding a

8 For arbitral awards, see the "reasons" requirement in Article 31(2) Model Law. Pure jurisdictional rulings are not regarded as arbitral awards: *PT Asuransi Jasa Indonesia (Persero) v Dexia Bank SA* [2006] SGCA 41.

9 PT First Media TBK v Astro Nusantara International BV [2013] SGCA 57 [163]: "the tribunal's own view of its jurisdiction has no legal or evidential value before a court that has to determine that question."

	pending setting aside application at the seat courts (Danish courts).[10]
Courts' attitude towards the recognition and enforcement of foreign awards annulled at the seat of the arbitration?	See section 5.7 below. This issue has not been decided by the Singapore courts. Unless there are particularly strong facts or reasons favouring enforcement, currently, Singapore courts are likely to be dismissive.
If an arbitral tribunal were to order a hearing to be conducted remotely (in whole or in part) despite a party's objection, would such an order affect the recognition or enforceability of an ensuing award in the jurisdiction?	Unlikely. While the objecting party may attempt to set aside the award on the grounds that it did not have a full opportunity to present its case, the Singapore court may find that it was reasonable for the tribunal to direct a virtual / remote hearing in view of the prevailing circumstances and the tribunal's duty to conduct hearings efficiently and expediently.
Key points to note in relation to arbitration with and enforcement of awards against public bodies at the jurisdiction?	As regards immunity, Singapore government bodies do not enjoy immunity in civil proceedings and arbitrations.[11] Accordingly, arbitral awards involving public bodies as parties to the arbitration are not treated any differently before the Singapore courts. As regards confidentiality, if the government body has concerns over confidentiality, Singapore courts have ordinary procedural powers to give directions to maintain confidentiality.[12]
Is the validity of blockchain-based evidence recognised?	Insofar as tribunals have the power to decide the admissibility and weight of evidence, it is possible for tribunals to accept the validity of blockchain-based evidence: see Section 7.1 below.
Where an arbitration agreement and/or award is recorded on a blockchain, is it recognised as valid?	There is no direct Singapore case authority, but likely the courts will recognise the validity of blockchain-based arbitration agreements, but not blockchain-based awards: see sections 7.1 and 7.4 below.
Would a court consider a blockchain arbitration agreement and/or award as originals for the purposes of recognition and enforcement?	There is no direct Singapore case authority, but likely the courts will recognise blockchain-based arbitration agreements and awards as originals: see section 7.3 below.
Other key points to note?	ϕ

10 Man Diesel & Turbo SE v IM Skaugen Marine Services Pte Ltd [2018] SGHC 132.

11 Sections 4-5, 18 Government Proceedings Act (Cap. 121).

12 Section 23(4) IAA; section 57(4) AA.

JURISDICTION DETAILED ANALYSIS

1. The legal framework of the jurisdiction

1.1 Is the arbitration law based on the UNCITRAL Model Law? 1985 or 2006 version? If yes, what key modifications if any have been made to it?

Singapore arbitration law consists of two main statutes: the International Arbitration Act (Cap. 143A) ("**IAA**") for international arbitrations, and the Arbitration Act (Cap. 10) ("**AA**") for domestic arbitrations.

The IAA gave legal force to the UNCITRAL Model Law on International Commercial Arbitration 1985 ("**Model Law**"), but subjected it to the following modifications (which are mirrored in the AA, to the extent they are applicable).

1. The IAA modified the first limb of the Model Law's *internationality* definition (Article 1(3)(a)) so that the limb can be satisfied more easily ("*at least one of the parties to an arbitration agreement, at the time of the conclusion of the agreement, has its place of business in any State other than Singapore*").[13]

2. The IAA modified the Model Law's *provisions on enforcement of arbitral agreements* (Article 8), by making clear that (1) the courts' reference of parties to arbitration will be done by way of stay of court proceedings (not dismissal); (2) the court has powers as to the *terms* of that stay, e.g., the court may order a partial stay (insofar as the court proceedings relate to the matter falling within the arbitral agreement), and may make interim orders in relation to any property which is the subject of the dispute; and (3) the application for stay may be filed after appearance but before delivering any pleading or taking any other step in the proceedings.[14]

3. The IAA modified the Model Law's *default number of arbitrators* (Article 10(2)), reducing it from three to one.[15] The IAA also included more elaborate provisions on default appointment procedure.[16]

4. The IAA modified the Model Law's *appeal procedure for jurisdictional rulings* (Article 16(3)), allowing a party to appeal against not only positive jurisdictional rulings but also negative jurisdictional rulings.[17]

5. The IAA included further *grounds for setting aside awards* (in addition to the grounds in Article 34 Model Law), i.e., where the (a) the making of the award was induced or affected by fraud or corruption; or (b) a breach of the rules of natural justice occurred in connection with the making of the award by which the rights of any party have been prejudiced.[18] Note, however, that the latter ground is accepted to overlap with the existing Article 34 grounds.[19]

6. The IAA excludes Chapter VIII of the Model Law, which deals with the recognition and enforcement of foreign awards (see section 3 of the IAA). In its place, the IAA enacted fresh statutory provisions

---

13 Section 5(2) IAA.

14 Section 6 IAA.

15 Section 9 IAA.

16 Sections 9A-9B IAA.

17 Section 10 IAA. Where the applicant succeeds in appealing against a negative jurisdictional ruling, the tribunal shall continue the arbitral proceedings to render an award; any arbitrator who is unwilling or unable to continue the proceedings will be substituted in accordance with Article 15 Model Law: section 10(6) IAA.

18 Section 24 IAA.

19 Triulzi Cesare SRL v Xinyi Group (Glass) Co Ltd [2014] SGHC 220.

to address the recognition and enforcement of international arbitral awards seated outside Singapore.[20]

1.2 When was the arbitration law last revised?

The AA was last amended in 2016, and the IAA was last amended recently in October 2020, with amendments effective from 1 December 2020. The statutes continue to be interpreted and supplemented by the courts in judgments. The recent amendments to the IAA follow from the Singapore Ministry of Law's public consultation on proposed amendments to the IAA in the period of June to August 2019.[21]

2. The arbitration agreement

2.1 How do the courts in the jurisdiction determine the law governing the arbitration agreement?

The Singapore courts determine the law of the arbitration agreement by applying the following framework:[22]

1. First, the courts will examine if the parties have made an *express* choice of law governing the arbitration agreement. If they have, that will be the governing law.[23]

2. If the parties have not, the courts will then examine if the parties have made an *implied* choice of the law governing the arbitration agreement. If the arbitration agreement is located in a substantive contract,[24] the courts will *presume* that the implied choice is the same law as that governing the substantive contract. That presumption may be rebutted, but the grounds for rebuttal are also limited. For example, it is not sufficient to show that the parties chose a different jurisdiction as the seat of the arbitration;[25] something more is required, such as proof that the arbitration agreement would be found to be null and void under the law of the main contract, even though the parties had themselves evinced a clear intention to be bound to arbitrate their disputes.[26]

3. If the presumption is effectively rebutted, the courts will examine which system of law has the *closest and most real connection* to the arbitration agreement. That law will be the law of the arbitration agreement.

2.2 In the absence of an express designation of a 'seat' in the arbitration agreement, how do the courts deal with references therein to a 'venue' or 'place' of arbitration?

References to a "place" of arbitration in an arbitration agreement are deemed to mean the seat of arbitration,[27] while references to a "venue" of arbitration refer merely to the physical location in which the

---

20 Part III IAA. For international arbitrations seated in Singapore, case law confirms that the grounds for refusing enforcement (as distinct from setting aside) of such awards mirror the grounds under Chapter VII of the Model Law and/or article V of the New York Convention: *PT First Media TBK v Astro Nusantara International BV and ors and another appeal* [2013] SGCA 57 [86]-[99].

21 Ministry of Law of Singapore, "Public Consultation on International Arbitration Act" <https://www.mlaw.gov.sg/news/public-consultations/public-consultation-on-international-arbitration-act> accessed 14 May 2021.

22 *Dyna-Jet Pte Ltd v Wilson Taylor Asia Pacific Pte Ltd* [2016] SGHC 238 [31], *BCY v BCZ* [2016] SGHC 249 [40]-[67]; *BMO v BMP* [2017] SGHC 127 at [39]; *BNA v BNB and another* [2019] SGCA 84 [44]-[48].

23 The mere fact that the parties have chosen a law to govern the main contract does not amount to an *express* choice that that law would also govern the arbitration agreement: *BNA v BNB and another* [2019] SGCA 84 [61].

24 If the arbitration agreement is "freestanding" in the sense it is not a term of any other contract, the parties' implied choice would be presumed to be the law of the seat: *BCY v BCZ* [2017] 3 SLR 357 at [67].

25 *BCY v BCZ* [2017] 3 SLR 357 at [65].

26 *BCY v BCZ* [2017] 3 SLR 357 at [74]. The Singapore Court of Appeal has yet to affirm this rebuttal ground: *BNA v BNB and another* [2019] SGCA 84 [95].

27 PT Garuda Indonesia v Birgen Air [2001] SGHC 262.

arbitration is to take place.[28] Recently, in a landmark case, the Singapore Court of Appeal interpreted the phrase "*for arbitration in Shanghai*" to mean that Shanghai was chosen as the seat of the arbitration.[29]

2.3 Is the arbitration agreement considered to be independent from the rest of the contract in which it is set forth?

Singapore law recognises the doctrine of separability of the arbitration agreement. Under this doctrine, if a party challenges the validity of the substantive terms of the contract, this invalidity – even if established – would not, on its own, compromise the validity of the arbitration agreement.[30]

It is important to recognise, however, that this is all the doctrine stands for. For example:

1. The doctrine does not operate to allow an assignor of a contractual right to retain the benefit of the arbitration agreement.[31] So, if a party assigns, to a third party, a substantive right under a contract that also contains an arbitration agreement, the assignor will be regarded (in the absence of contrary intention) as having assigned the benefit and burden of the arbitration agreement as well.[32]

2. The doctrine also does not operate to preclude the possibility that the arbitration agreement's governing law will mirror the substantive contract's governing law.[33] As explained above, an arbitration agreement's governing law is presumed, at the second stage of the framework detailed above, to be the same law as that governing the substantive contract.[34]

2.4 What are the formal requirements (if any) for an enforceable arbitration agreement?

The only formal requirement of an arbitration agreement is that it has to be in writing.[35]

Note, however, that Singapore arbitration statutes provide a flexible interpretation of this requirement. For instance, Singapore arbitration statutes stipulate that the requirement will be satisfied if:[36]

(a) the arbitration agreement's content is recorded in any form, whether the arbitration agreement or contract was concluded orally, by conduct or by other means;

(b) the arbitration agreement is constituted in an electronic communication, provided that the information contained therein is accessible so as to be useable for subsequent reference;

(c) a party asserts the existence of an arbitration agreement in a pleading, statement of case or any other document in circumstances in which the assertion calls for a reply and the other party does not deny that assertion;

(d) a contract refers to any document containing an arbitration clause, making that clause part of the contract; or

---

28 PT Garuda Indonesia v Birgen Air [2001] SGHC 262.

29 *BNA v BNB* [2019] SGCA 84.

30 Fiona Trust & Holding Corporation v Privalov [2007] 2 All ER (Comm) 1053 at [18]: "Even if the allegation is that there was no concluded agreement (for example, that terms of the main agreement remained to be agreed) that is not necessarily an attack on the arbitration agreement. If the arbitration clause has been agreed, the parties will be presumed to have intended the question of whether there was a concluded main agreement to be decided by arbitration." This is cited in BCY v BCZ [2016] SGHC 249 at [88].

31 *BXH v BXI* [2020] SGCA 28 [73]-[75].

32 *Cassa di Risparmio di Parma e Piacenza SpA v Rals International Pte Ltd* [2015] SGHC 264 [111]-[113]. Thus, it was held that an assignee of a substantive right which is subject to the arbitration agreement "*cannot take that right otherwise than with the obligation to arbitrate because that obligation is annexed ab initio to it.*"

33 *BCY v BCZ* [2016] SGHC 249 [60]-[61].

34 See section 2.1 above.

35 Section 2A(3) IAA; section 4(3) AA.

36 Section 2A(4)-(8) IAA; section 4(4)-(8) AA.

(e) a bill of lading refers to a charterparty or other document containing an arbitration clause, making that clause part of the bill of lading.

2.5 To what extent, if at all, can a third party to the contract containing the arbitration agreement be bound by said arbitration agreement?

A third party may not be bound by an arbitration agreement to which it is (by definition) not privy. Even where a company is related to another (or to individuals), courts will generally not construe third parties as privy to the arbitration agreement.[37] In particular, the "group of companies" doctrine has not been accepted in Singapore.[38]

2.6 Are there restrictions to arbitrability? In the affirmative:

2.6.1 Do these restrictions relate to specific domains (such as anti-trust, employment law, etc.)?

Section 11(1) of the IAA (titled "Public policy and arbitrability") states that: "*Any dispute which the parties have agreed to submit to arbitration under an arbitration agreement may be determined by arbitration unless it is contrary to public policy to do so.*"[39]

Consistent with this, the Singapore courts have ruled that, "*where the subject matter of the dispute is of such a nature as to make it contrary to public policy for that dispute to be resolved by arbitration*", the dispute will be non-arbitrable.[40]

As part of its goal of making Singapore an attractive global hub for the resolution of IP disputes, the Singapore Parliament has legislated to render IP disputes[41] arbitrable.[42] Apart from IP disputes, the courts have generally accepted that matters that involve or concern the interests of third parties, public rights or concerns, and matters of uniquely governmental authority, would be non-arbitrable.[43]

However, the courts have generally steered clear of making broad statements of what constitutes non-arbitrable matters. Courts have preferred instead to decide arbitrability on a case-by-case basis.

Thus, to date, Singapore courts have addressed arbitrability primarily[44] in two key matters – minority oppression and winding-up. The courts' approaches to both matters are summarised further below.

---

37 See BC Andaman Co Ltd and others v Xie Ning Yun and another [2017] 4 SLR 1232 [98].

38 See *Manuchar Steel Hong Kong Ltd v Star Pacific Line Pte Ltd* [2014] 4 SLR 832. The "group of companies" doctrine, or the "single economic entity concept", refers to the doctrine that an agreement signed by one company in a group of companies will bind non-signatory companies affiliated to that signatory, if the circumstances surrounding the negotiation, execution, and termination of the agreement show that the mutual intention of all the parties was to bind the non-signatories as well.

39 Section 11(1) IAA.

40 Tomolugen Holdings Ltd and another v Silica Investors Ltd and other appeals [2016] 1 SLR 373 at [75].

41 This is defined as including "(a) a dispute over the enforceability, infringement, subsistence, validity, ownership, scope, duration or any other aspect of an [IP right]; (b) a dispute over a transaction in respect of an [IP right]; and (c) a dispute over any compensation payable for an [IP right]": section 26A(4) IAA; section 52A(3) AA.

42 Section 26B IAA; section 52B AA.

43 Tomolugen Holdings Ltd and another v Silica Investors Ltd and other appeals [2016] 1 SLR 373 at [71].

44 As regards the arbitrability of employment disputes, the Court of Appeal has also swiftly affirmed that "there was nothing in the nature of [the Central Provident Fund Act, the Employment Act or the Industrial Relations Act] that makes it unsuitable for an arbitrator to deal with the issues they give rise to." Sim Chay Koon and others v NTUC Income Insurance Co-operative Limited [2015] SGCA 46 [10(b)].

2.6.1.1 Minority oppression

Claims of minority oppression under section 216 of the Companies Act (Cap. 50) are generally arbitrable, because they "*generally [do] not engage the public policy considerations involved*".[45] The fact that the arbitral tribunal is unable to grant certain reliefs sought in respect of the minority oppression claim would not in itself render the subject matter of the dispute non-arbitrable.[46]

2.6.1.2 Winding-up

In relation to matters in insolvency, the Singapore courts distinguish between two types of disputes.[47]

(a) The first category refers to disputes "*that arise only upon the onset of insolvency due to the operation of the insolvency regime*". This includes disputes over compliance with statutory provisions of avoidance and wrongful trading. The courts regard these disputes as *non-arbitrable*; this is because the objective of these provisions – creditor protection – may be compromised if a company's pre-insolvency management had the ability to restrict the avenues by which the creditors could enforce these statutory remedies.

(b) The second category refers to "*disputes involving an insolvent company that stem from its pre-insolvency rights and obligations*", such as debt claims by the creditors. The court accept these disputes as *arbitrable*; this is because they are "*prior, private inter se disputes*" between the company and the creditor, which – even if resolved in favour of the suing creditor – will not affect the pool of assets available to all creditors that is still subject to the wider liquidation process.

Thus, if a creditor applies to court to wind up a company, on grounds of inability to pay debts, but the underlying debt is disputed and (*prima facie*) falls within the scope of an arbitral agreement, the company is ordinarily entitled to a dismissal of proceedings in favour of arbitration. The creditor cannot claim the dispute is non-arbitrable, since it concerns *pre-insolvency* rights.[48]

2.6.2 Do these restrictions relate to specific persons (i.e., State entities, consumers, etc.)?

Not at the moment, insofar as the character of the persons bring the matter within the criterion of non-arbitrability as discussed above.

In fact, in relation to States, Singapore law provides that a State has no immunity in arbitration-related proceedings in the Singapore courts, if that State has agreed in writing to submit a dispute to arbitration.[49]

---

45 *Tomolugen Holdings Ltd and another v Silica Investors Ltd and other appeals* [2016] 1 SLR 373 at [84]. This left open the possibility that the facts of particular section 216 claims might be non-arbitrable: *L Capital Jones Ltd and another v Maniach Pte Ltd* [2017] SGCA 3 at [26].

46 Tomolugen Holdings Ltd and another v Silica Investors Ltd and other appeals [2016] 1 SLR 373 [103].

47 Larsen Oil and Gas Pte Ltd v Petroprod Ltd (in official liquidation in the Cayman Islands and in compulsory liquidation in Singapore) [2011] SGCA 21 [44]-[51]; AnAn Group (Singapore) Pte Ltd v VTB Bank (Public Joint Stock Company) [2020] SGCA 33 [68]-[70].

48 *AnAn Group (Singapore) Pte Ltd v VTB Bank (Public Joint Stock Company)* [2020] SGCA 33. However, if the creditor is able to prove legitimate concerns about the solvency of the company as a going concern, and no triable issue has been raised by the company, the court could grant a stay (as opposed to a dismissal) of the winding-up application: *AnAn Group (Singapore) Pte Ltd v VTB Bank (Public Joint Stock Company)* [2020] SGCA 33 [110]-[112]. These principles apply equally to an application to injunct a creditor from commencing winding-up proceedings: *BWG v BWF* [2020] SGCA 36.

49 Section 11(1) State Immunity Act (Cap. 313).

3. Intervention of domestic courts

3.1 Will the courts stay litigation if there is a valid arbitration agreement covering the dispute?

The Singapore courts have adopted a philosophy of facilitating arbitration.[50] To this end, they approach arbitration agreements with a view of "*upholding, rather than defeating, the typical expectations of commercial parties who choose arbitration*"[51] so as to prevent fragmentation of dispute resolution.[52] Although the case would turn closely on its facts and the relative prejudice to the parties, generally, the Singapore courts would stay litigation if it is clear that there is an operative arbitration clause and the dispute falls within its scope.

3.1.1 If the place of the arbitration is inside of the jurisdiction?

For domestic arbitrations seated in Singapore, a stay is discretionary and may be granted where the court is satisfied, on a *prima facie* basis,[53] that:[54] (1) there is no sufficient reason why the matter should not be resolved in accordance with the arbitration agreement; and (2) the party applying for a stay remains ready and willing to arbitrate. An important factor in the court's exercise of discretion is the arbitrability of the dispute (see section 2.5 above).[55]

For international arbitrations seated in Singapore, the applicant is entitled as of right to a stay if it is at least arguable or appears *prima facie* that:[56] (1) the applicant is a party to the arbitration agreement; (2) the court proceedings instituted involve a matter which is the subject of the arbitration agreement; and (3) the arbitration agreement is not "null and void, inoperative or incapable of being performed". Once the applicant discharges its burden of proving these requirements,[57] a stay becomes mandatory.[58] The term "null and void" refers to cases where the arbitration agreement suffers from invalidity from the outset, such as due to misrepresentation, duress, fraud, mistake, or undue influence; "inoperative" covers cases where the arbitration agreement has ceased to have effect, such as revocation or waiver by the parties; and "incapable of being performed" covers cases where the arbitration cannot effectively be set into motion, such as where the arbitration clause is too vaguely worded, or other terms of the contract contradict the parties' intention to arbitrate.[59] A dispute involving a non-arbitrable subject matter would render an arbitration agreement either "inoperative" or "incapable of being performed".[60]

---

50 *Larsen Oil & Gas Pte Ltd v Petroprod Ltd* [2011] 3 SLR 414 at [19]. See also *Tjong Very Sumito v Antig Investments Pte Ltd* [2009] 4 SLR(R) 732, where the Court of Appeal adopted a generous interpretation of the word "dispute" in an arbitration clause.

51 Cassa di Risparmio di Parma e Piacenza SpA v Rals International [2016] 1 SLR 79 at [133].

52 Cassa di Risparmio di Parma e Piacenza SpA v Rals International [2016] 1 SLR 79 at [135]; Tjong Very Sumito v Antig Investments Pte Ltd [2009] 4 SLR(R) 732 at [29].

53 Tomolugen Holdings Ltd and another v Silica Investors Ltd and other appeals [2016] 1 SLR 373 at [65]; Uni-Navigation Pte Ltd v Wei Loong Shipping Pte Ltd [1992] 3 SLR(R) 595 at [16]-[17]; Kwan Im Tong Chinese Temple and another v Fong Choon Hung Construction Pte Ltd [1998] 1 SLR(R) 401 at [14]; Coop International Pte Ltd v Ebel SA [1998] 1 SLR(R) 615 at [103]; Multiplex Construction Pty Ltd v Sintal Enterprise Pte Ltd [2005] 2 SLR(R) 530 at [6].

54 Section 6(2) AA; *Coop International Pte Ltd v Ebel SA* [1998] 1 SLR(R) 615 at [149].

55 Larsen Oil & Gas Pte Ltd v Petroprod Ltd [2011] 3 SLR 414 at [23]-[26].

56 Section 6(1) IAA; Malini Ventura v Knight Capital Pte Ltd [2015] 5 SLR 707 [36]; Rals International Pte Ltd v Cassa di Risparmio di Parma e Piacenza SpA [2016] 5 SLR 455 [20]; Tomolugen Holdings Ltd and another v Silica Investors Ltd and other appeals [2016] 1 SLR 373 [63]; Wilson Taylor Asia Pacific Pte Ltd v Dyna-Jet Pte Ltd [2017] 2 SLR 362 [11]-[12].

57 Dyna-Jet Pte Ltd v Wilson Taylor Asia Pacific Pte Ltd [2017] 3 SLR 267 [25].

58 Rals International Pte Ltd v Cassa di Risparmio di Parma e Piacenza SpA [2016] 5 SLR 455 at [14]; Tjong Very Sumito and others v Antig Investments Pte Ltd [2009] 4 SLR(R) 732 at [22]; Coop International Ptd Ltd v Ebel SA [1998] 1 SLR(R) 615 at [99] and [112]; Cassa di Risparmio di Parma e Piacenza SpA v Rals International [2016] 1 SLR 79 at [45].

59 *Dyna-Jet Pte Ltd v Wilson Taylor Asia Pacific Pte Ltd* [2017] 3 SLR 267 at [143], citing Albert Jan van den Berg, "The New York Convention of 1958: an Overview" in E Gaillard and D Di Pietro (eds), *Enforcement of Arbitration Agreements and International Arbitral Awards: the New York Convention in Practice* (Cameron May, 2008); *Malini Ventura v Knight Capital Pte Ltd* [2015] 5 SLR 707 at [42]; *Tjong Very Sumito v Antig Investments Pte Ltd* [2009] 4 SLR(R) 732 at [53].

60 Tomolugen Holdings Ltd and another v Silica Investors Ltd and other appeals [2016] 1 SLR 373 at [74].

For both domestic and international arbitrations, the party applying for a stay must do so "at any time after appearance and before delivering any pleading or taking any other step in the proceedings".[61] An applicant is deemed to have taken a step in proceedings if he employs court procedures to defend those proceedings on their merits, or demonstrates an unequivocal intention to submit to the court's jurisdiction and participate in court proceedings.[62] Applications which amount to a step in proceedings include an application for leave to defend or strike out, an application for discovery and an application for directions.[63] However, an application for an extension of time does not amount to a step in the proceedings if it was made *bona fide* to protect the applicant's position in the event that his stay application was refused.[64]

3.1.2 If the place of the arbitration is outside of the jurisdiction?

Even if the place of arbitration is outside Singapore, Singapore courts must stay court proceedings unless the arbitration agreement is "*null and void, inoperative or incapable of being performed*".[65] The Singapore courts have in previous instances upheld or ordered a stay of court proceedings in favour of an arbitration agreement for foreign arbitration.[66]

3.2 How do courts treat injunctions by arbitrators enjoining parties to refrain from initiating, halt or withdraw litigation proceedings?

Arbitral tribunals in international arbitrations seated in Singapore are empowered under the IAA to grant interim injunctions or any other interim measures,[67] which include an interim anti-suit injunction restraining parties from initiating or continuing litigation proceedings.[68] Such orders are enforceable (with the General Division of the High Court's leave) in the same manner as if they were orders made by a court.[69]

However, arbitral tribunals in domestic arbitrations do not enjoy similar powers, unless specifically conferred upon by the parties.[70] Such powers are instead reserved for the court,[71] as greater court supervision is exercised over domestic arbitration for the development of domestic commercial and legal practice.[72]

3.3 On what ground(s) can the courts intervene in arbitrations seated outside of the jurisdiction? (Relates to the anti-suit injunctions / anti-arbitration injunctions or orders, but not only)

The IAA empowers the High Court's General Division to order interim measures in aid of arbitrations seated outside Singapore.[73] Such orders may be made against a foreign defendant,[74] and even if it relates to a matter that is not justiciable before a Singapore court.[75] However, this power is exercised scrupulously, and only when it will assist in the just and proper conduct of arbitration, or in the preservation of property which is

---

61 Section 6(1) AA; Section 6(1) IAA.

62 Carona Holdings Pte Ltd and others v Go Go Delicacy Pte Ltd [2008] 4 SLR(R) 460 at [55].

63 Carona Holdings Pte Ltd and others v Go Go Delicacy Pte Ltd [2008] 4 SLR(R) 460 at [55].

64 Carona Holdings Pte Ltd and others v Go Go Delicacy Pte Ltd [2008] 4 SLR(R) 460 at [94]-[99].

65 Coop International Pte Ltd v Ebel SA [1998] 1 SLR(R) 615 at [149].

66 Piallo GmbH v Yafriro International Pte Ltd [2014] 1 SLR 1028; The "Makassar Caraka Jaya Niaga III-39" [2011] 1 SLR 982 at [46]; The "Pontianak Caraka Jaya Niaga III-34" [2010] SGHC 314 at [9]; Coop International Pte Ltd v Ebel SA [1998] 1 SLR(R) 615 at [99].

67 Section 12(1)(i) IAA.

68 PT Pukuafu Indah and others v Newmont Indonesia Ltd and another [2012] 4 SLR 1157 at [16] and [18].

69 Section 12(6) IAA.

70 Section 28(2) AA; NCC International AB v Alliance Concrete Singapore Pte Ltd [2008] 2 SLR(R) 565 at [49].

71 Section 31(1)(d) AA.

72 *NCC International AB v Alliance Concrete Singapore Pte Ltd* [2008] 2 SLR(R) 565 at [49]-[50], citing the Law Reform Sub-Committee on Review of Arbitration Laws, "Report on Review of Arbitration Laws" (August 1993) at [12].

73 Section 12A IAA.

74 PT Gunung Madu Plantations v Muhammad Jimmy Goh Mashun [2018] 4 SLR 1420 at [57].

75 International Arbitration (Amendment) Bill 2009 (Bill 20 of 2009) at p 8.

the subject matter of the arbitration.[76] The High Court's General Division may also refuse to make orders if the fact that the arbitration is seated outside Singapore makes it inappropriate to do so.[77] Further, the High Court's General Division will only make such orders (a) with the arbitral tribunal's permission or with the parties' written agreement (unless the case is urgent),[78] and (b) if the arbitral tribunal (or arbitral institution) has no power or is unable to act effectively for the time being.[79]

The High Court may make orders or give directions for, *inter alia*, the preservation of any property which forms the subject-matter of the dispute; the prevention of dissipation of assets; and any interim injunction or any other interim measure.[80] This includes the grant of Anton Piller orders and Mareva injunctions,[81] as well as interim mandatory injunctions (though only granted in exceptional circumstances),[82] but is not limited as such.[83]

Singapore courts may also grant interim anti-suit injunctions where there is a breach of an arbitration agreement, provided that it is promptly sought, and before the court proceedings are too far advanced.[84]

4. The conduct of the proceedings

4.1 Can parties retain foreign counsel or be self-represented?

In arbitrations, parties can either retain foreign counsel or be self-represented.[85]

In arbitration-related court proceedings in Singapore, all companies need to be represented by Singapore-qualified lawyers.[86]

4.2 How strictly do courts control arbitrators' independence and impartiality? For example: does an arbitrator's failure to disclose suffice for the court to accept a challenge or do courts require that the undisclosed circumstances be of a gravity such as to justify this outcome?

There are two ways by which courts can control arbitrators' independence and impartiality: challenge proceedings, and setting-aside enforcement proceedings.

In challenge proceedings, a party may apply to the High Court's General Division, challenging the arbitrator on the basis that *"circumstances exist that give rise to justifiable doubts as to the arbitrator's impartiality or independence"*.[87]

---

76 NCC International AB v Alliance Concrete Singapore Pte Ltd [2008] 2 SLR(R) 565 at [28]-[29], [34] and [41]; Front Carriers Ltd v Atlantic & Orient Shipping Corp [2006] 3 SLR(R) 854 at [15].

77 Section 12A(3) IAA.

78 Section 12A(5) IAA.

79 Section 12A(6) IAA.

80 Section 12A(2) read with Sections 12(1)(c) to (i) IAA.

81 Maldives Airports Co Ltd v GMR Malé International Airport Pte Ltd [2013] 2 SLR 449 at [34].

82 *NCC International AB v Alliance Concrete Singapore Pte Ltd* [2008] 2 SLR(R) 565 at [75]. See for e.g., *CCH v CDB* [2020] SGHC 143 where the High Court granted a mandatory injunction, ordering the defendant to discontinue certain litigation proceedings.

83 Maldives Airports Co Ltd v GMR Malé International Airport Pte Ltd [2013] 2 SLR 449 at [34].

84 Maldives Airports Co Ltd and another v GMR Malé International Airport Pte Ltd [2013] SGCA 16 at [42].

85 See, e.g., CGS v CGT [2020] SGHC 183 [13]: "there is now no legislative impediment to parties in arbitrations in Singapore being represented by whomsoever they choose." This is affirmed by Rule 23.1 SIAC Rules 2016: "Any party may be represented by legal practitioners or any other authorised representatives. The Registrar and/or the Tribunal may require proof of authority of any party representatives."

86 Order 5 rule 6(2) Rules of Court. However, a company, variable capital company or a limited liability partnership may apply to the Singapore court for leave to allow an officer of the company or limited liability partnership to act on its behalf: Order 1 rule 9(2).

87 Arts 12(2) and 13(3) Model Law; sections 14(3) and 15(4) AA.

In setting-aside proceedings, a party may apply to the High Court's General Division, to set aside the arbitral award on the same basis.[88]

In both cases, the test is the same: the applicant (if he cannot prove *actual* or *imputed*[89] bias) has to prove at least *apparent* bias; to prove apparent bias, he must pass the test of "*reasonable suspicion*",[90] i.e., show that "*there are circumstances which would give rise to a reasonable suspicion or apprehension in a fair-minded reasonable person with knowledge of the relevant facts that the tribunal may be biased and that a fair hearing may not be possible as a result.*"[91]

4.3 On what grounds do courts intervene to assist in the constitution of the arbitral tribunal (in case of *ad hoc* arbitration)?

If the issue concerns the interpretation of the arbitration agreement, the courts would generally interpret the arbitration agreement (to ascertain the parties' intent) and direct the parties based on its interpretation of the arbitration agreement. See, for instance, *Bovis Lend Lease Pte Ltd v Jay-Tech Marine & Projects Pte Ltd and Another Application* [2005] SGHC 91, where the court construed the arbitration agreement,[92] found that parties had agreed to *ad hoc* arbitration, and declared that (giving effect to the parties' agreement) "*the arbitration to be conducted pursuant to the arbitration agreement is an ad hoc arbitration and shall be conducted by the arbitrator in accordance with such rules of the SIAC as the arbitrator determines are applicable*" (at [22(b)]).

If the parties choose *ad hoc* international arbitration seated in Singapore, and specify the number of arbitrators as three, but do not specify the procedure for constitution, the default procedure in section 9A (or 9B, as the case may be) IAA applies. Under this procedure, each party shall appoint one arbitrator, and the parties shall agree on the third arbitrator, failing which either party may request the President of the SIAC Court of Arbitration to appoint the third arbitrator.

If the parties choose *ad hoc* international arbitration seated in Singapore, but do not specify (i) the number of arbitrators and (ii) the procedure for constitution, there will be a sole arbitrator by default; and if the parties are unable to agree on the sole arbitrator, any party may request the President of the SIAC Court of Arbitration to appoint the sole arbitrator.[93]

In the case of *ad hoc* domestic arbitrations for which the parties are unable to agree on the number of arbitrators and mechanism for appointing arbitrators, the default mechanism in Article 13 read with Article 12(2) of the AA for appointing a sole arbitrator will apply. If the parties are unable to agree on the sole arbitrator, any party may request the President of the SIAC Court of Arbitration to appoint the sole arbitrator.[94]

---

88 Section 24(b) IAA or Article 34(2)(b)(ii) Model Law; section 48(1)(a)(vii) or 48(1)(b)(ii) AA.

89 Bias is imputed in cases where the arbitrator may be said to be acting in his own cause, such as where he has a pecuniary interest in the case: *PT Central Investindo v Franciscus Wongso and others and another matte* [2014] SGHC 190 [15].

90 PT Central Investindo v Franciscus Wongso and others and another matter [2014] SGHC 190 [18].

91 *BYL and another v BYN* [2020] SGHC(I) [50]-[51].

92 The relevant portion of the arbitration agreement read: "All other disputes (including disputes referred to in Clause 13.2.1 which are not required by [Bovis] to be determined in accordance with Clause 13.2) will be dealt with in the following manner: … 13.3.2 Unless otherwise agreed by the parties, the arbitrator will be appointed by the President of the Institute of Architects in Singapore (or such other body as carries on the functions of the Institute) or his nominee. 13.3.3 The arbitrator must conduct the proceedings in accordance with Rules of the Singapore International Arbitration Centre".

93 Sections 8(2) and 9 IAA; Article 11(3)(b) Model Law.

94 Sections 13(3)(b) and 13(8) AA.

4.4 Do courts have the power to issue interim measures in connection with arbitrations? If so, are they willing to consider *ex parte* requests?

Yes. The High Court has the power to issue interim measures, including injunctions, securing the amount in dispute, etc.[95] This power is irrespective of whether the place of arbitration is located in Singapore.[96]

Courts are willing to hear *ex parte* requests insofar as those requests are urgent,[97] although even when such a request is being made, the opponent should generally be given notice of the hearing at least 2 hours in advance.[98] The practical difference between such a hearing and an *inter parte* hearing – despite both parties being represented – is that the opponent would generally not present any arguments in an *ex parte* hearing. An explanation will need to be furnished as to why the hearing has to be *ex parte* and/or if notice cannot be given to the counterparty.

In addition, the High Court has the power to issue permanent anti-suit injunctions to enforce an arbitration agreement seated in Singapore,[99] whether the arbitration has already been concluded.[100] Ordinarily, the Court will grant the injunction if it has been shown that the lawsuit was commenced in breach of an arbitration agreement, unless there are strong reasons not to grant the injunction. One example is where the foreign proceedings have progressed too far as a result of the applicant's delay in seeking the anti-suit injunction.[101]

4.5 Other than arbitrators' duty to be independent and impartial, does the law regulate the conduct of the arbitration?

4.5.1 Does it provide for the confidentiality of arbitration proceedings?

Yes. The IAA was amended in October 2020 to introduce a provision empowering the High Court's General Division and arbitral tribunals to enforce confidentiality obligations in arbitrations.

Section 12(1)(j) of the IAA empowers the arbitral tribunal to enforce any obligation of confidentiality arising by way of parties' agreements, under any written law or rule of law, or under the rules of arbitration adopted by parties. Section 12A(2) IAA grants the High Court's General Division the same power.[102]

The Singapore courts have also held that "the obligation of confidentiality in arbitration will apply as a default to arbitrations where the parties have not specified expressly the private and/or confidential nature of the arbitration" where Singapore is the seat of the arbitration.[103] This obligation is subject to exceptions,

---

95 Section 31 AA and section 12A IAA.

96 Section 12A(1)(b) IAA.

97 See, e.g., Order 69A rule 3(3) Rules of Court (which applies to proceedings under the IAA): "Where the case is one of urgency or an application under section 18, 19 or 29 of the Act for leave to enforce an award or foreign award, such application may be made ex parte on such terms as the Court thinks fit". There is similar language in Order 69 rule 3(3) (which applies to proceedings under the AA).

98 Supreme Court Practice Directions (https://epd.supremecourt.gov.sg/) at paras 41(1) and (2).

99 Section 18(2) read with para 14 of the First Schedule to the Supreme Court of Judicature Act (Cap 322). As regards arbitration agreements seated outside Singapore, this has not been tested in Singapore, but the High Court has remarked *obiter* that "*it is only when strong reasons are present that the courts would intervene with a permanent anti-suit injunction to support foreign international arbitration. One possible situation might be where the forum in which the arbitration is to take place does not provide for effective interim measures in support of arbitration*": *R1 International Pte Ltd v Lonstroff AG* [2014] SGHC 69 [55].

100 Sun Travels & Tours Pvt Ltd v Hilton International Manage (Maldives) Pvt Ltd [2019] SGCA 10 [88].

101 Sun Travels & Tours Pvt Ltd v Hilton International Manage (Maldives) Pvt Ltd [2019] SGCA 10 [68].

102 The amendment to the IAA is effective from 1 December 2020. See Section 8.1 below.

103 See Myanma Yaung Chi Oo Co Ltd v Win Win Nu and another [2003] 2 SLR(R) 547 [17]: "The first issue that is to be resolved is whether there is an implied duty of confidentiality. I prefer the English position over the Australian. Parties who opt for arbitration rather than litigation are likely to be aware of and be influenced by the fact that the former are private hearings while the latter are open hearings. Rather than to say that there is nothing inherently confidential in the arbitration

including (a) where there is consent, express or implied; (b) where there is an order or leave of the court; (c) where it is reasonably necessary for the protection of the legitimate interests of an arbitration party; and (d) where the interests of justice or public interest requires disclosure.[104]

In addition, in arbitration-related court proceedings in Singapore, parties are entitled to apply for the proceedings to be heard in closed court.[105] Where proceedings are so heard, a party may additionally apply to the court to place restrictions on the reporting of the proceedings.[106]

4.5.2 Does it regulate the length of arbitration proceedings?

No. Singapore arbitration law does not contain provisions regulating the length of arbitration proceedings.

4.5.3 Does it regulate the place where hearings and/or meetings may be held, and can hearings and/or meetings be held remotely, even if a party objects?

No. Singapore arbitration law does not regulate where hearings and meetings may be held. On the contrary, it empowers the arbitral tribunal to hold the hearing at any place it considers appropriate, unless the parties agree otherwise.[107]

Hearings and/or meetings can potentially be held remotely even where a party objects to the same. Party autonomy in this regard is balanced against the tribunal's duty to conduct hearings efficiently and expediently. Although the objecting party may seek to set aside any arbitral award on the grounds of a breach of natural justice, in particular, for being deprived of a full opportunity to present its case, the tribunal's directions for a virtual hearing may not necessarily be in breach of the principles of natural justice where the tribunal has exercised its wide procedural discretion reasonably, and not irrationally or capriciously.[108]

4.5.4 Does it allow for arbitrators to issue interim measures? In the affirmative, under what conditions?

Yes. Singapore arbitration law empowers arbitral tribunals in domestic and international arbitrations seated in Singapore to issue interim measures, such as security for costs, injunctions, etc.[109]

Beyond such empowerment, Singapore arbitration law does not regulate the conditions on which these interim measures can be issued. The only interim measure that Singapore law regulates to a limited extent is security for costs. Security for costs may not be ordered if the only reason is that (1) the claimant is an individual ordinarily resident outside Singapore; or (2) a corporation or an association incorporated or

process, it is more in keeping with the parties' expectations to take the position that the proceedings are confidential, and that disclosures can be made in the accepted circumstances." See also International Coal Pte Ltd v Kristle Trading Ltd and another and another suit [2009] 1 SLR(R) 945 at [82]: "As a matter of law, an obligation of confidentiality is to be implied in arbitration proceedings due to the private nature of such proceedings"; and AAY and others v AAZ [2011] 1 SLR 1093 at [55]: "as a principle of arbitration law at least in Singapore and England, the obligation of confidentiality in arbitration will apply as a default to arbitrations where the parties have not specified expressly the private and/or confidential nature of the arbitration. While parties anticipating international arbitration would remain well advised to agree prospectively on the obligation of confidentiality, there is no need to do so where Singapore is to be the seat of the arbitration because confidentiality will apply as a substantive rule of arbitration law, not through the IAA or the AA, but from the common law."

104 *AAY and others v AAZ* [2009] SGHC 142 at [64]; *Republic of India v Vedanta Resources plc* [2020] SGHC 208 [111]-[112]. In *Republic of India v Vedanta Resources plc* [2020] SGHC 208, the issue was raised as to whether the common law obligation of confidentiality extended to investment treaty arbitrations, but was ultimately not decided by the High Court.

105 Section 22 IAA; section 56 AA.

106 Section 23 IAA; section 57 AA.

107 Article 20(2) Model Law.

108 China Machine New Energy Corp v Jaguar Energy Guatemala LLC and another [2020] SGCA 12, [103], [168] and [170].

109 Section 28 AA; section 12 IAA.

formed under the law of a country outside Singapore, or whose central management and control is exercised outside Singapore.[110]

4.5.5 Does it regulate the arbitrators' right to admit/exclude evidence? For example, are there any restrictions to the presentation of testimony by a party employee?

Singapore does not extend its rules of evidence under the Evidence Act to arbitration proceedings.[111] Instead, Singapore arbitration law empowers the arbitral tribunal to determine the admissibility, relevance, materiality and weight of any evidence.[112] How the tribunal exercises that power is not regulated by Singapore arbitration law, save that Singapore law imposes a general obligation on the arbitral tribunal to give each of the parties a reasonable opportunity to present its case.[113]

4.5.6 Does it make it mandatory to hold a hearing?

Singapore arbitration law obliges arbitral tribunals to hold hearings at an appropriate stage of the proceedings only if a party so requests. However, there is no such obligation if the parties have already agreed not to hold hearings.[114]

4.5.7 Does it prescribe principles governing the awarding of interest?

No. Singapore arbitration law empowers arbitral tribunals to award pre-award or post-award interest but do not prescribe the principles to be applied in that determination.[115]

4.5.8 Does it prescribe principles governing the allocation of arbitration costs?

No. Singapore arbitration law does not prescribe principles on the tribunal's allocation of costs of the arbitration. However, this is subject to sections 39(2) and (3) of the AA, which provide that, for domestic arbitrations seated in Singapore, if parties agree *before a dispute arises* that they are to bear their own costs of the arbitration, that agreement would be void.

If the arbitral tribunal orders costs to be paid without quantifying such costs, the costs will be taxed by the Registrar of the Supreme Court (for domestic arbitrations)[116] and the Registrar of the SIAC (for international arbitrations).[117]

4.6 Liability

4.6.1 Do arbitrators benefit from immunity from civil liability?

Arbitrators are not liable for negligence in respect of anything done or omitted to be done in their capacity as arbitrators; or any mistake of law, fact or procedure made in the course of arbitral proceedings or in the making of an arbitral award.[118]

---

110 Section 28(3) AA; section 12(4) IAA.

111 Section 2(1) Evidence Act (Cap 97).

112 Article 19 Model Law and section 23 AA.

113 Article 18 Model Law; section 22 AA; *CBP v CBS [2020] SGHC 23*.

114 Article 24(1) Model Law; section 25(2) AA. In *PT Asuransi Jasa Indonesia (Persero) v Dexia Bank SA* [2005] SGHC 197, the Singapore High Court found at [52] that the setting-aside applicant failed to request for an oral hearing during the arbitration, so it was "*not entitled now to complain that it was not given the chance to orally address any concerns that the Tribunal might have had after reading the submissions of both parties*."

115 See section 35 AA and section 20 IAA, which empower tribunals to award pre-award and post-award interest, but does not prescribe the principles to be applied in deciding whether and how to exercise that power.

116 See section 39 AA.

117 See section 21 IAA.

118 Section 20 AA; section 25 IAA.

Arbitral institutions are also generally immune from civil liability, except where there is bad faith.[119]

4.6.2 Are there any concerns arising from potential criminal liability for any of the participants in an arbitration proceeding?

Singapore arbitration law does not give rise to concerns of potential criminal liability for any of the participants in an arbitration proceeding. However, the arbitral tribunal may (in appropriate circumstances) come under a duty to investigate allegations of corruption, insofar as such conduct could affect the enforceability of its award.[120]

5. The award

5.1 Can parties waive the requirement for an award to provide reasons?

The general requirements of an award are that:[121]

1. the award has to be in writing and signed by the arbitral tribunal;
2. the award should state the reasons upon which it is based;
3. the date of the award and place of the arbitration shall be stated in the award; and
4. the award shall be delivered to each party.

Parties may waive the requirement for an award to provide reasons.[122]

5.2 Can parties waive the right to seek the annulment of the award? If yes, under what conditions?

There is no provision under the IAA with respect to whether the parties can waive the right to set aside the award. Absent such provision, it is unlikely that the courts will give effect to waiver agreements, although this position has yet to be tested in Singapore.

5.3 What atypical mandatory requirements apply to the rendering of a valid award rendered at a seat in the jurisdiction?

There are no atypical mandatory requirements which apply to awards rendered in Singapore: see the requirements in 5.1 above.

5.4 Is it possible to appeal an award (as opposed to seeking its annulment)? If yes, what are the grounds for appeal?

For domestic arbitrations, a party may appeal to the High Court on a question of law arising out of an award, so long as (i) the parties have not agreed to opt out of the appeal mechanism; and (ii) the parties have agreed to the appeal being brought, or leave of court has been obtained.[123]

The appellant or applicant must first exhaust any available arbitral process of appeal or review, and any available recourse under section 43 of the AA concerning the correction or interpretation of awards.[124]

---

119 Section 59 AA; section 25A IAA.

120 China Machine New Energy Corp v Jaguar Energy Guatemala LLC and another [2018] SGHC 101 at [224]; Re Landau, Toby Thomas QC [2016] SGHC 258 [66].

121 Section 38 AA; Article 31 Model Law.

122 Section 38(2) AA; Article 31(2) Model Law.

123 Section 49 AA.

124 Section 50(2) AA.

The appellant or applicant must then bring the appeal or application within 28 days of the date he was notified of the result of the arbitral process of appeal or review or, if there is no such available process, of the date of the award.[125]

The Court may then only grant leave to appeal if it is satisfied that:[126]

1. the determination of the question will substantially affect the rights of one or more of the parties;
2. the question is one which the arbitral tribunal was asked to determine;
3. on the basis of the findings of fact in the award, the decision of the arbitral tribunal on the question is obviously wrong; or the question is one of general public importance and the decision of the arbitral tribunal is at least open to serious doubt; and
4. despite the agreement of the parties to resolve the matter by arbitration, it is just and proper in all the circumstances for the Court to determine the question.

For international arbitrations, the IAA currently does not provide an appeal process against awards made in international arbitrations.

5.5 What procedures exist for the recognition and enforcement of awards, what time-limits apply and is there a distinction to be made between local and foreign awards?

Recognition and enforcement of awards – both domestic and international – entail the following key steps:[127]

1. The party seeking to recognise or enforce an award may apply to court on an *ex parte* basis with an affidavit exhibiting the arbitration agreement, the original award, the details of the applicant(s) and respondent(s),[128] and an indication of the extent to which the award has been complied with (if at all). This first step is a largely a mechanical process.[129] What this means is that this process "*does not require a judicial investigation by the court enforcing the award under the IAA [and that] the examination that the court must make of the documents […] is a formalistic and not substantive one*".[130]
2. As the proceeding is *ex parte*, the applicant would be under a duty to provide full and frank disclosure.[131] This includes disclosing to the court any circumstances which may affect the enforceability of the award (such as attempts to set aside the award or resist enforcement in other jurisdictions).
3. Where the court is satisfied the papers are in order, it will issue an order granting leave to enforce the award.
4. This order must then be served on the respondent by delivering a copy to him personally or by sending a copy to him at his usual or last known place of residence or business or in such other manner as the court may direct.[132] Service of the order out of the jurisdiction is permissible without leave.[133]

---

125 Section 50(3) AA.

126 Section 49(5) AA.

127 Order 69A rule 6 for proceedings under the IAA; O 69 r 14 for proceedings under the AA.

128 In particular, the name and the usual or last known place of residence or business of either party.

129 Aloe Vera of America, Inc v Asianic Food (S) Pte Ltd and another [2006] 3 SLR(R) 174 at [42].

130 Strandore Invest A/S and others v Soh Kim Wat [2010] SGHC 151 at [22].

131 *AUF v AUG and other matters* [2016] 1 SLR 859 at [164]-[165].

132 Order 69A rule 6(2) Rules of Court for proceedings under the IAA; Order 69 rule 14(2) for proceedings under the AA. For respondents that are body corporates, see Order 69A rule 6(6); Order 69A rules 14(6)-(7).

133 Order 69A rule 6(3) Rules of Court for proceedings under the IAA; Order 69 rule 14(3) for proceedings under the AA.

5. Within 14 days of service of the order, the respondent may apply to set aside the order; the award may not be enforced until the 14-day limit has expired, or (if the respondent has applied to set aside) until the setting-aside application has been disposed of.[134]

6. If the respondent misses the 14-day window, but still wants to stay enforcement of the award, his only option is to apply to set aside the award at the seat, and apply for a stay of execution in the Singapore courts pending that setting-aside (which stay is at the court's discretion). The courts will apply established principles to guide that discretion, namely as follows:[135]

    a. On the one hand, the court will not deprive a successful litigant of the fruits of his litigation, and lock up funds to which he is *prima facie* entitled, pending the setting-aside application.

    b. On the other hand, when a party is exercising his undoubted right of application to set aside, the court ought to see that the setting-aside, if successful, is not rendered nugatory.

    c. Accordingly, a stay will be granted if it can be shown that, if the damages and costs are paid, there is no reasonable probability of getting them back if the setting-aside application succeeds; *special circumstances* must accordingly be demonstrated.

5.6 Does the introduction of annulment or appeal proceedings automatically suspend the exercise of the right to enforce an award?

If setting-aside proceedings are commenced in the courts of the seat (whether within or outside Singapore), they do not automatically suspend enforcement proceedings in Singapore; the respondent still has to apply to set aside the order of leave within the 14-day window, *and then* persuade the Singapore courts to exercise their discretion to stay enforcement proceedings pending the setting-aside.[136] In determining whether to exercise that discretion, the Singapore courts will strike a balance between the competing interests, and come down on the side of an outcome that is the most just or least unjust. To this end, they will take into account *inter alia* whether the applicant is demonstrably pursuing a meritorious application in the seat, as well as the likely consequences of an adjournment, in particular its likely length of delay.[137]

5.7 When a foreign award has been annulled at its seat, does such annulment preclude the award from being enforced in the jurisdiction?

If a foreign award has been annulled at the seat, it is likely that the Singapore courts will decline to enforce the award, though this has yet to be tested in Singapore courts.[138]

---

134 Order 69A rule 6(4) Rules of Court for proceedings under the IAA; Order 69 rule 14(4) for proceedings under the AA.

135 *CDM and others v CDP* [2020] SGHC 141 [34]-[46].

136 Section 31(5) IAA for international arbitrations seated outside Singapore; Article 36(2) Model Law read with *PT First Media TBK v Astro Nusantara International BV and ors and another appeal* [2013] SGCA 57 [86]-[99] for international arbitrations seated within Singapore.

137 Man Diesel Turbo SE v I.M. Skaugen Marine Services Pte Ltd [2018] SGHC 132 at [46]-[47].

138 See PT First Media TBK (formerly known as PT Broadband Multimedia TBK) v Astro Nusantara International BV and others and another appeal [2014] 1 SLR 372 at [77], where the Court of Appeal, despite eventually leaving the question open, indicated a preference for the view that awards that had been set aside cannot be enforced: "While the wording of Art V(1)(e) of the New York Convention and Art 36(1)(a)(v) of the Model Law arguably contemplates the possibility that an award which has been set aside may still be enforced, in the sense that the refusal to enforce remains subject to the discretion of the enforcing court, the contemplated erga omnes effect of a successful application to set aside an award would generally lead to the conclusion that there is simply no award to enforce. What else could it mean to set aside an award? If this avenue of recourse would only ever be of efficacy in relation to enforcement proceedings in the seat court, then it seems to have been devised for little, if any, discernible purpose. As such, we do not think that in principle, even the wider notion of "double-control" can encompass the same approach as has been adopted by the French courts. The refusal to enforce awards which have not been set aside at the seat court may therefore constitute one of the outer-limits of "double-control". However, as this specific issue is not directly engaged in the present appeal, we offer no further comment beyond these tentative thoughts." See also Prometheus Marine Pte Ltd v King, Ann Rita and another appeal [2017] SGCA 61 [46].

5.8 Are foreign awards readily enforceable in practice?

Foreign awards – i.e., arbitral awards made in pursuance of an arbitration agreement in the territory of a country other than Singapore – are enforceable in the same manner as an award made in Singapore, irrespective of whether that country is a party to the New York Convention.[139]

6. Funding Arrangements

6.1 Are there laws or regulations relating to, or restrictions to, the use of contingency or alternative fee arrangements or third-party funding at the jurisdiction? If so, what is the practical and/or legal impact of such laws, regulations or restrictions?

Singapore law provides different regulations in relation to (i) third-party funding and (ii) contingency fee arrangements.

In relation to third-party funding, Singapore law distinguishes between two types of contracts. First, with regard to contracts with qualifying third-party funders for the funding of *international arbitration proceedings (and related court or mediation proceedings)*, these contracts are enforceable, provided that the funder meets the qualification requirements under statute.[140] Second, with regard to third-party funding contracts to fund all other proceedings in Singapore, these contracts will continue to be subject to the prevailing rules on the type of contracts that will be treated as contrary to public policy or otherwise illegal (i.e., they are potentially unenforceable).[141]

In relation to contingency fee arrangements, Singapore law distinguishes between two groups of lawyers. As regards Singapore-qualified lawyers and foreign-qualified lawyers who are registered to practise both foreign law and Singapore law,[142] these lawyers are still prohibited from entering into contingency fee arrangements of whatever nature (including conditional fee arrangements) under prevailing professional conduct rules.[143] As regards other lawyers falling outside the first category, Singapore's professional conduct rules do not regulate their conduct in relation to contingency fee arrangements.

There are promising signs that, in relation to the first category of lawyers, legislation will be passed to allow, in prescribed proceedings, one type of contingency fee arrangement – the conditional fee arrangement – where the lawyer receives payment of his fees, including "uplift" or "success" fees, only if the claim is successful. Such legislation will align Singapore more closely with international practice and users' expectations.[144]

---

139 Section 46(3) AA; section 29 IAA.

140 Section 5B Civil Law Act (Cap 43); Civil Law (Third-Party Funding) Regulations 2017. The Ministry of Law has announced plans to extend this category to include third-party funding contracts that fund domestic arbitrations as well as prescribed proceedings in the Singapore International Commercial Court. See Ministry of Law, "Speech by Minister (Law and Home Affairs) K Shanmugam at the Opening Ceremony of Law Society at Maxwell Chamber Suites" (10 October 2019) <https://www.mlaw.gov.sg/news/speeches/speech-by-minister-k-shanmugam-at-opening-ceremony-of-lawsoc-at-maxwell-chambers-suites> accessed 14 May 2021.

141 Section 5A(2) Civil Law Act (Cap 43). However, even if such contracts are unenforceable, there will be no tortious liability for maintenance and champerty, owing to the abolishment of such tort under Section 5A(1) Civil Law Act (Cap 43).

142 Rule 3(4) Legal Profession (Professional Conduct) Rules 2015.

143 Section 107(1)(b) Legal Profession Act (Cap 161) and Rule 18 Legal Profession (Professional Conduct) Rules 2015.

144 See section 8.1 below.

7. Arbitration and technology

7.1 Is the validity of blockchain-based evidence recognised?

In Singapore-seated international arbitrations and domestic arbitrations, arbitrators are empowered (in the absence of party agreement) to "*determine the admissibility, relevance, materiality and weight of any evidence*".[145]

Accordingly, it is possible for arbitrators to give weight to blockchain-based evidence adduced in the proceedings, taking into account the particular facts and circumstances surrounding such evidence.

7.2 Where an arbitration agreement and/or award is recorded on a blockchain, is it recognised as valid?

7.2.1 Arbitral agreements

In relation to arbitral agreements:

1. The form requirement is that the arbitration agreement must be "in writing".[146]
2. The substantive requirement is that the arbitration agreement (for it to be enforced by courts) must not be "null and void", "inoperative" or "incapable of being performed" under Singapore law.[147]

In relation to these requirements, there is no Singapore case law authority on whether an arbitration agreement, if recorded on a blockchain, would *ipso facto* render it incapable of satisfy either requirement.

However, if this question were to arise before the Singapore courts, there is good reason for the courts to answer this question in the negative (i.e., recognise the validity of blockchain-recorded arbitration agreements):

1. As regards the form requirement, Singapore arbitration law states that the writing requirement "*is satisfied by an electronic communication if the information contained therein is accessible so as to be useable for subsequent reference*".[148] A blockchain-recorded arbitration agreement would appear to constitute such an electronic communication.
2. In relation to the substantive requirement, the fact that an arbitration agreement is recorded in blockchain does not mean, *ipso facto*, that consent is vitiated to render it "null and void"; it also does not mean that the arbitral agreement has ceased to have contractual effect to render it "inoperative". It also does not constitute a "*contingency that prevents the arbitration from being set in motion*" to render it "incapable of being performed".[149] Thus it is unlikely that this fact would trigger any of these hurdles.

7.2.2 Arbitral awards

In relation to arbitral awards:

1. The form requirement is that the award has to be (1) made in writing and (2) signed by the arbitrators.[150]

---

145 Article 19(2) Model Law; section 23(3) AA.

146 Section 2A(3) IAA; section 4(3) AA.

147 Section 6(2) IAA.

148 Section 2A(5) IAA; section 4(5) AA.

149 Dyna-Jet Pte Ltd v Wilson Taylor Asia Pacific Pte Ltd [2016] SGHC 238.

150 Article 31(1) Model Law; section 38(1) AA.

2. The substantive requirement is that the award must not "*conflict with the public policy of [Singapore]*", or trigger any other grounds for setting-aside.[151]

Currently, there is no Singapore case law authority on whether an award, if recorded on a blockchain, would *ipso facto* prevent a blockchain-recorded arbitral award from satisfying either requirement.

If this question were to arise before the Singapore courts, it is questionable whether the courts would accept that blockchain-recorded awards would satisfy the second form requirement of signature (giving rise to a possible basis for courts to deny the validity of such awards). This issue is discussed in section 7.4.

7.3 Would a court consider a blockchain arbitration agreement and/or award as originals for the purposes of recognition and enforcement?

Under the Singapore Evidence Act, blockchain-based arbitration agreements and awards need to cross two hurdles in order to be presumed to be primary (original) evidence.

First, it must be shown that the electronic record reflects the arbitration agreement or award accurately.[152] Second, it must be shown that the device or process producing that record is "*of a kind that, if properly used, ordinarily produces or accurately communicates an electronic record*.[153] If both requirements are met, the courts will presume (in the absence of contrary evidence) that the device or process accurately produced the electronic record of the arbitral agreement of award which constitutes primary evidence.

In the authors' view, provided that sufficient evidence is adduced, it is anticipated that Singapore courts will accept that blockchain-based arbitral agreements and awards satisfy these requirements. This proposition has yet to be tested and affirmed by the Singapore courts.

7.4 Would a court consider an award that has been electronically signed (by inserting the image of a signature) or more securely digitally signed (by using encrypted electronic keys authenticated by a third-party certificate) as an original for the purposes of recognition and enforcement?

This particular question has not arisen for the Singapore courts' determination.

However, there are credible arguments for the view that neither image-based signatures nor digital signatures will meet the signature requirement for the purposes of Singapore arbitration law.[154]

1. In relation to digital signatures, it is arguable that the Singapore Electronic Transactions Act (which gives effect to digital signatures that meet the criteria of identification, reliability and functionality)[155] does not apply to awards, since the Act's purpose[156] is to implement the UN Convention on the Use of Electronic Communications in International Contracts (which limits it scope of application to electronic *contracts*).[157] In the absence of clear statutory guidance, Singapore courts may be hesitant to accept digital signatures as satisfying the signature requirement.

2. In relation to unsecured image-based signatures, it is even less likely that Singapore courts will accept such signatures as satisfying the signature requirement. The purpose of this requirement is

---

151 Setting-aside grounds are set out in Article 34(1) Model Law and section 24 IAA; section 48 AA.

152 Section 64 Evidence Act (Cap. 97), Explanation 3.

153 Section 116A(1) Evidence Act (Cap. 97).

154 Article 31(1) Model Law; section 38(1) AA.

155 Section 8 Electronic Transactions Act (Cap. 88).

156 Section 3(g) Electronic Transactions Act (Cap. 88).

157 Article 1 UN Convention on the Use of Electronic Communications in International Contracts. See also Reinmar Wolff, 'Chapter 7: The UN Convention on the Use of Electronic Communications in International Contracts: An Overlooked Remedy for Outdated Form Provisions under the New York Convention?', in Katia Fach Gomez and Ana M. Lopez-Rodriguez (eds), *60 Years of the New York Convention: Key Issues and Future Challenges* (Kluwer Law International 2019) 105.

to "*ensure the arbitrator's personal attention and responsibility, and to provide an unequivocal evidentiary record of the tribunal's decision*".[158] An *unsecured* image-based signature may be seen by the courts as an unreliable means of upholding this purpose.

In practice, tribunals in Singapore-seated international arbitrations and domestic arbitrations ordinarily apply wet signatures. This is to protect the international enforceability of issued awards.

8. Is there likely to be any significant reform of the arbitration law in the near future?

8.1 IAA amendments

Singapore reviews its arbitration legislation periodically to ensure the legislation is aligned with international best practices and users' expectations.

The latest review took place from June to August 2019. In this period, the Singapore Ministry of Law conducted a public consultation on six proposed amendments to the IAA:[159]

1. an amendment to establish a default procedure for appointing arbitrators in arbitrations with 3 arbitrators and *more than 2 parties* (under this procedure, if the multiple claimants (or the multiple respondents) are unable to agree jointly on their own co-arbitrator by the stated deadlines, the SIAC President will appoint *all 3 arbitrators by default*);

2. an amendment to expressly empower the arbitral tribunal and the High Court's General Division to enforce parties' duties of confidentiality;

3. an amendment to allow a party to appeal to court on a question of law arising out of an award made in the proceedings, provided that the parties have agreed to opt in to the appeal mechanism;

4. an amendment to allow parties to request, by agreement, the arbitral tribunal to decide on jurisdiction as a preliminary question;

5. an amendment to allow parties to agree, after the award has been rendered, to waive or limit the grounds for setting-aside under the Model Law and IAA; and

6. an amendment to empower the High Court to issue orders on the costs of arbitral proceedings, following a successful application to set aside an award (in whole or in part), whether arising from a domestic or international arbitration.

After considering the views in the consultation, the Singapore Parliament enacted the first two amendments[160] above into law in October 2020.

8.2 Conditional fee arrangements

In addition, the Singapore Ministry of Law has conducted a public consultation on several proposed legislative amendments to allow conditional fee arrangements to be entered into in prescribed dispute resolution proceedings, including arbitration proceedings, certain proceedings in the SICC, and mediation proceedings arising out of or in any way connected with such proceedings.[161]

---

158 Gary Born, *International Commercial Arbitration* (3rd Edition, Kluwer Law International 2020) Ch. 23.02[B][2][a].

159 Ministry of Law of Singapore, "Public Consultation on International Arbitration Act" <https://www.mlaw.gov.sg/news/public-consultations/public-consultation-on-international-arbitration-act> accessed 14 May 2021.

160 Sections 9B, 12(1)(j) and 12A(2) IAA.

161 Ministry of Law of Singapore, "Public Consultation on Conditional Fee Agreements in Singapore" <https://www.mlaw.gov.sg/news/public-consultations/public-consultation-on-conditional-fee-agreements-in-singapore> accessed 14 May 2021.

The amendments – which are likely to be welcomed by the arbitration community – will amend the professional conduct rules and impose certain safeguards to regulate conditional fee arrangements. For example, the enactments will require (a) the client to have been fully informed of the nature and operation of the arrangement and confirm that he has been told of his right to seek independent legal advice before entering into the agreement; and (b) that the arrangement contains a "cooling-off period" during which the client may terminate the arrangement by written notice.

It is anticipated that these enactments will be passed in the near future to align Singapore law and practice to international expectations, particularly in the case of sophisticated global users of arbitration, who expect to be able to enter into alternative fee arrangements with their lawyers in Singapore.

8.3 Costs issues

Separately, the Law Reform Committee of the Singapore Academy of Law had also sought feedback in 2018 on:[162]

1. whether the High Court should generally award costs on an indemnity basis against an unsuccessful applicant in setting aside proceedings, or an unsuccessful respondent who had applied for refusal of enforcement of an award; and

2. whether proceedings to enforce an arbitration award, where contested, should be fixed at first instance before a High Court Judge instead of an Assistant Registrar.

At the time of this report, the project has been temporarily placed on hold, pending other reform proposals to the wider Singapore civil justice system.

9. Compatibility of the Delos Rules with local arbitration law

The Delos Rules are largely compatible with Singapore's arbitration framework.

However, one potentially inconsistent provision in the Delos Rules is Article 5, which sets out that, where the parties have not agreed on the seat of arbitration, the tribunal shall determine the seat from amongst the list of seats in Schedule 1 of the Delos Model Clauses, having regard to all circumstances of the case. Schedule 1 of the Delos Model Clauses provides for 38 cities as possible seats.

In contrast, Singapore's arbitration laws impose no restrictions on the options from which tribunals may select as the seat.

10. Further reading

1. D Foxton QC, D Joseph QC, *Singapore International Arbitration: Law and Practice*, 2nd Edition, Lexis Nexis, 2018.
2. T Cooke, *International Arbitration in Singapore: Legislation and Materials*, 1st Edition, Sweet & Maxwell, 2018.
3. Chief Justice S Menon, F Xavier SC, YL Chong, L Reed, *Arbitration in Singapore – A Practical Guide*, 2nd Edition, Sweet and Maxwell, 2018.
4. R Merkin, J Hjalmarsson, *Singapore Arbitration Legislation*, 1st Edition, Informa Law, 2016.

162 Law Reform Committee, "Consultation Paper on Certain Issues concerning Arbitration-Related Court Proceedings" (January 2018) <https://www.sal.org.sg/sites/default/files/PDF%20Files/Law%20Reform/2018-01%20-%20Court-related%20Arbitration%20Proceedings%20(consultation%20paper).pdf> accessed 14 May 2021.

ARBITRATION INFRASTRUCTURE AT THE JURISDICTION

Leading national, regional and international arbitral institutions based out of the jurisdiction, *i.e.*, with offices and a case team?	Singapore International Arbitration Centre (**SIAC**)[163] Permanent Court of Arbitration (**PCA**)[164] International Chambers of Commerce (**ICC**)[165] Singapore Chamber of Maritime Arbitration (**SCMA**)[166] WIPO Arbitration and Mediation Center Singapore[167] ICDR-AAA Singapore Asia Case Management Centre[168]
Main arbitration hearing facilities for in-person hearings?	Maxwell Chambers[169]
Main reprographics facilities in reasonable proximity to the above main arbitration hearing facilities?	The Room, Maxwell Chambers Suites, 28 Maxwell Road, Singapore 069120
Leading local providers of court reporting services, and regional or international providers with offices in the jurisdiction?	The Singapore Supreme Court has approved the following service providers for court proceedings: **Epiq Singapore Pte Ltd** 16 Raffles Quay, #35-01, Hong Leong Building, Singapore 048581 Tel No: (+65) 6800 0268 / Email: singapore@epiqglobal.com Website: www.epiqglobal.com/asia **Opus 2 International Singapore Pte Ltd** 28 Maxwell Road, Maxwell Chambers Suites #04-12/13, Singapore 069120 Tel No: (+65) 3158 5095 / Email: bd@opus2.sg Website: www.opus2.com
Leading local interpreters for simultaneous interpretation between English and the local language, if it is not English?	The Singapore Supreme Court offers their own Interpreters Section to provides interpretation services to court parties with limited knowledge of English and who require interpretation in Chinese languages (Mandarin, Hokkien, Teochew and Cantonese), Malay languages (Malay, Javanese and Boyanese) and Indian languages (Tamil, Malayalam).
Other leading arbitral bodies with offices in the jurisdiction?	ϕ

163 <http://www.siac.org.sg/contact-us> accessed 14 May 2021.

164 <https://pca-cpa.org/en/about/singapore-office/> accessed 14 May 2021.

165 <https://iccwbo.org/contact-us/contact-sicas/> accessed 14 May 2021.

166 <https://www.scma.org.sg/contact-us> accessed 14 May 2021.

167 <https://www.wipo.int/amc/en/center/singapore/> accessed 14 May 2021.

168 <https://go.adr.org/ICDR-Singapore.html> accessed 14 May 2021.

169 <https://www.maxwellchambers.com/room-rates/> accessed 14 May 2021.