

THE CHOICE OF COURT AGREEMENTS ACT 2016: IMPLICATIONS FOR DISPUTE RESOLUTION IN SINGAPORE

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Singapore International Arbitration Alert

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The Hague Convention on Choice of Court Agreements (the “**Convention**”) establishes an international legal regime which requires contracting states to (a) uphold exclusive choice of court agreements designating the courts of contracting states in international civil or commercial cases; and (b) recognise and enforce judgments of the courts of other contracting states designated in exclusive choice of court agreements, subject to the exceptions in the Convention.

Singapore ratified the Convention on 2 June 2016 by incorporating it under domestic legislation through the Choice of Court Agreements Act (“**CCAA**”), which comes into force on 1 October 2016. The incorporation of the Convention under the CCAA represents an important development in the Singapore government's attempt to fortify Singapore's position as the dispute-resolution hub in Asia. The CCAA applies to cases heard in the Singapore High Court and the Singapore International Commercial Court (“**SICC**”), as the SICC is a division of the Singapore High Court.

The Convention will ultimately provide more certainty and cost savings for parties to an international agreement. In particular, time, effort and considerable expense will be saved by requiring contracting states to stay or decline to hear the matter if the agreement has designated Singapore courts as having exclusive jurisdiction over any dispute. This will potentially prevent long drawn out arguments on *forum non conveniens*. Similarly, Singapore courts will be required to stay or decline a matter where another contracting states' court has been designated as having exclusive jurisdiction.

The Convention also provides for the principle of mutual recognition of court judgments by requiring contracting states to give effect to judgments of the chosen court in the same way as if it were a judgment of their own court. In effect, the Convention replicates the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards, by making court judgments automatically enforceable in another contracting state. This is potentially a game changer when it comes to parties choosing to opt for litigation over arbitration. Previously, the reciprocal enforcement of foreign judgments was provided for in Singapore via the Reciprocal Enforcement of Commonwealth Judgments Act and the Reciprocal Enforcement of Foreign Judgments Act. The combined reach of both these acts extended to 11 countries (the Commonwealth states and Hong Kong respectively). In marked

contrast, the Convention applies to 28 states including the EU member states (save for Denmark) and Mexico. Whilst the USA and Ukraine are signatories to the Convention they have yet to ratify it.

The CCAA is a positive and welcome boost to dispute resolution in Singapore as it provides parties with greater certainty and predictability in the enforcement of judgements obtained in the Singapore courts as well as increasing the number of jurisdictions in which such judgments may be enforced.

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