The Hague Choice of Court Agreements Convention: The Singapore Perspective

Submitted by: Singapore
THE HAGUE CHOICE OF COURT AGREEMENTS CONVENTION: THE SINGAPORE PERSPECTIVE

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Overview

I. Singapore: Member of the Hague Conference on Private International Law (HCCH)

II. Singapore: Signatory to the Hague Choice of Court Agreements Convention (“the Convention”)

III. Ongoing work: Ratifying the Convention

IV. Looking ahead
I. Singapore: Member of HCCH

- Became a member of HCCH on 9 April 2014
- Signed the Hague Choice of Court Agreements Convention on 25 March 2015
Singapore: Member of HCCH

- Party to:
  - Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters
  - Convention of 25 October 1980 on the Civil Aspects of International Child Abduction

II. Singapore: Signatory to the Convention
Singapore: Signatory to the Convention

**Convention Aims:**
- Legal Certainty
- Favourable climate for international trade and investment
- Ensures choice of court agreements are effective
- Enforcement and recognition of judgments rendered by the chosen court

**Benefits to Singapore:**
- Harmonised rules for ensuring respect for choice of court agreements
- Strengthens the framework for cross-border enforcement of court judgments

Views from consultations with legal sector:

- Supportive of Singapore signing the Convention
- Beneficial if judgments are more easily enforced across jurisdictions
Singapore: Signatory to the Convention

The importance of convergence:

• The Convention serves as a platform for convergence - harmonised rules to give effect to choice of court agreements

• In line with the desire for increased convergence of cross-border laws and improved legal infrastructure and harmonisation of regulatory standards across Asia


III. Ongoing work: Ratifying the Convention
Implementation of the Convention

- 2 types of regimes: monist vs dualist
  - Monist: International treaties are self-executing. Automatic application of treaty in the State
  - Dualist: Non self-executing. Additional steps required to incorporate treaty into law of the State

- Singapore = Dualist

Methods of implementation

- Choice depends on policy objectives and assessment of pros and cons.

- Possible methods:
  1. Give effect to treaty as it is
  2. Independent enactment of treaty provisions
  3. Empower Executive to make subsidiary legislation
Issues to consider in implementation

- Harmonisation of existing Singapore statutory regimes for enforcement of foreign judgments with the Convention regime:
  - Reciprocal Enforcement of Commonwealth Judgments Act (RECJA)
  - Reciprocal Enforcement of Foreign Judgments Act (REFJA)

- Whether there are any inconsistencies between existing Singapore legislation and the Convention to be reconciled. For example:
  - Definitions of “international”, “civil or commercial”
  - Extent of a Singapore Court’s discretion to decline jurisdiction where there is an exclusive choice of court agreement in its favour

- Whether Singapore should make any declarations under the Convention
Legislative process for implementation

- Legislative process in Singapore:
  - Cabinet approval of Bill containing implementing legislation, for introduction to Parliament
  - First, Second and Third Reading of Bill in Parliament
  - Review by Presidential Council for Minority Rights
  - Bill becomes Act of Parliament upon receiving Presidential assent

- Implementing legislation is to commence effect by date of entry into force of Convention for Singapore

IV. Looking Ahead
Looking Ahead

- Convention coming into force on 1 Oct 2015
- Looking forward to more countries (esp. APEC economies) signing onto the benefits of the Convention
- Greater adoption of the Convention will result in deeper impact of benefits from the Convention for all

THANK YOU