



**Asia-Pacific
Economic Cooperation**

2015/SOM3/EC/WKSP4/006

Session 5

The Hague Choice of Court Agreements Convention: The Singapore Perspective

Submitted by: Singapore



APEC
PHILIPPINES
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**Workshop on Effective Enforcement of Business
Contracts and Efficient Resolution of Business
Disputes Through the Hague Choice of Court
Agreements Convention
Cebu, Philippines
1 September 2015**

THE HAGUE CHOICE OF COURT AGREEMENTS CONVENTION: THE SINGAPORE PERSPECTIVE

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1 September 2015

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

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

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- 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

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Singapore: Signatory to the Convention 

<p><u>Convention Aims:</u></p> <ul style="list-style-type: none"> - 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 	<p><u>Benefits to Singapore:</u></p> <ul style="list-style-type: none"> - Harmonised rules for ensuring respect for choice of court agreements - Strengthens the framework for cross-border enforcement of court judgments
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Singapore: Signatory to the Convention 

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

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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
- International Conference on Doing Business Across Asia: Legal Convergence in an Asian Century, Singapore - 21 – 22 January 2016

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III. Ongoing work: Ratifying the Convention

Implementation of the Convention

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- 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

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- 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

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- 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)

Issues to consider in implementation

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- 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

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- 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

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IV. Looking Ahead

Looking Ahead

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- 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

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THANK YOU