

The Singapore International Commercial Court (SICC) plans to introduce new shorter, simpler rules toward the end of 2021. The new rules go some way toward dealing with perennial issues in international dispute resolution of time, cost, document disclosure, experts, party tactics, unresponsive parties, third parties, settlement encouragement, unmeritorious claims and defences, and counsel ethics.

Our International Dispute Resolution partner Cameron Ford, who is registered to appear in the SICC, spoke on these issues at the SICC Symposium 2021 with SICC President, Justice Quentin Loh, Justice Sir Henry Bernard Eder, Justice Chau Lee Ming, Toby Landau QC, Cavinder Bull SC, Nicholas Lingard and Una Khng.

Four general principles guide the application of the new rules, with the court seeking to achieve:

- (a) The expeditious and efficient administration of justice according to law
- (b) Procedural flexibility
- (c) Fair, impartial and practical processes
- (d) Procedures compatible with and responsive to the needs and realities of international commerce

Those principles are expected to be more than mere “motherhood” statements, with the court relying on them to justify decisive action. The new rules deal with the issues mentioned above as follows:

Time

The court is firmly in control of the judge-led proceedings and is able to deal decisively with delay as required by the first general principle. Submissions, pleadings, documents, claims and defences may be disallowed, struck out or disposed of summarily for unreasonable delay or non-compliance with an order.

Cost

Controlling time, limiting discovery and expert evidence, allocating costs, requiring costs estimates or budgets, considering security for costs applications, and the court being in close control of the proceedings should help control costs. Some of these are methods recommended by the [ICC Commission Report on Controlling Time and Costs in Arbitration](#).



Due Process Paranoia

The court’s control of the case and its power to make peremptory orders, combined with the lack of a “procedural fairness” ground of refusing enforcement of a judgment under the [Hague Convention on Choice of Court Agreements](#), will mean that the court is not paralysed by a fear of being accused of denying procedural fairness.

Party Tactics

With its power to control parties and proceedings, the court is able to exert more control over tactics used to delay, frustrate or increase a party’s costs.

Encouraging Settlement

One of the concerns of users in the [2019 Queen Mary Survey on International Construction Disputes](#) was tribunals’ reluctance to explore settlement through alternative dispute resolution. The SICC will raise settlement with the parties and can direct them to participate.

Discovery

There is no general right of discovery under the new rules, with parties only obliged to disclose documents on which they rely, and documents requested of them that are sufficiently material and not privileged, confidential or merely a train of enquiry, and which would not be unreasonably burdensome, or procedurally uneconomical, disproportionate or unfair to disclose.

Experts

The court must approve the adduction of expert evidence and will only do so if the evidence will contribute materially to the resolution of an issue.

Unmeritorious Claims and Defences

A solid proportion of users in the [2018 Queen Mary Survey on The Evolution of International Arbitration](#) complained of the lack of ways to dispose summarily of unmeritorious claims or defences. The SICC has the usual tools of a court of default judgment, striking out pleadings, summary judgment, judgment on admissions and no-case submissions.

Unresponsive Parties

The frustration of dealing with parties who respond slowly or not at all is alleviated by the peremptory and summary disposition power of the court.

Third Parties

The SICC has power over third parties through joinder, consolidation and third-party notices.

Counsel Ethics

International dispute resolution brings together practitioners subject to differing ethical standards, resulting in different practices accepted by each. It is difficult for the forum, particularly an arbitral tribunal, to deal with allegations of unethical conduct. While not a direct answer to the issue, the SICC has the power to order costs against practitioners personally and, in a serious case, to commit for contempt of court.

Conclusion

The new rules make the SICC an attractive forum for the resolution of international disputes in appropriate cases. Feel free to contact us to discuss the appropriate forum for your contracts.

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