

A 'good first step' for new Singapore court hearing cross-border disputes

By Tang See Kit | Posted: 06 Jun 2016 11:19 | Updated: 06 Jun 2016 11:29

Lawyers that Channel NewsAsia spoke to noted that the speed at which the judgement was handed down marked a positive first step for the Singapore International Commercial Court (SICC).



The exterior of the Supreme Court in Singapore.

SINGAPORE: The Singapore International Commercial Court (SICC) handed down its first judgement last month and the speed at which the Republic's first international commercial court case progressed has drawn praise from the law community.

Launched in Jan 2015 and positioned to hear disputes over global business deals, the SICC issued its first written judgement on May 12 for an US\$800 million (S\$1 billion) spat concerning parties in Singapore, Australia and Indonesia. The judgment came just four months after the end of the hearing.

"It was a good first step," Partner at Norton Rose Fulbright Lye Kah Cheong told Channel NewsAsia. "The market was very interested in how the SICC will handle its first case and it has impressed with the speed at which the judgment was handed out."

Lawyers from international law firm Freshfields Bruckhaus agreed, noting that the judgement stood out for both its clarity and speed. "Time will tell whether the SICC is successful in establishing Singapore as a centre for the resolution of international commercial disputes, but this decision has the SICC off to a flying start," the team of lawyers led by Mr Nicholas Lingard, head of International Dispute Resolution in Asia, said in a report.

The case arose mainly from alleged breaches of a joint venture agreement for the application of a patented technology to produce and sell upgraded coal from East Kalimantan, as well as the business and operations of the joint venture company incorporated in Indonesia.

BCBC Singapore, a wholly owned subsidiary of Binderless Coal Briquetting Company in Australia, is seeking damages from Indonesian firm Bayan Resources TBK. The latter conversely commenced a counterclaim against BCBC Singapore and its parent company in Australia, White Energy Company. The heads of damages include a claim of about US\$750 million and a counterclaim of about US\$59 million.

Both parties have agreed to resolve the dispute in tranches, and the first judgement issued last month was in relation to the first batch of issues concerning the scope and effect of the various agreements.

According to Senior Counsel Francis Xavier, who led a team of Rajah & Tann lawyers to represent BCBC Singapore, the hearing "proceeded expeditiously and concluded within 9 days even though the matter had been fixed for hearing for 15 days".

However, the efficiency of the Republic's new specialist court did not come as a surprise. "(It) was evident to us from the very beginning of the proceedings that the court was very mindful of the time progress of the case. There were monthly case management conferences where the 3 judges closely monitored and managed the myriad procedural aspects," Mr Xavier added. "This level of case management is unprecedented."

Dispute resolution lawyer Mr Lye said this "hands-on approach" by the judges in the early stages of the case helped to speed up the case proceedings significantly.

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CAN IT HELP SINGAPORE BECOME ASIA'S DISPUTE RESOLUTION HUB?

The SICC – the first of its kind in Asia - is part of a plan to position Singapore as Asia's dispute resolution hub, together with the Singapore International Arbitration Centre, set up in 1991, and the Singapore International Mediation Centre launched last November.

While it has taken the first step in the right direction, lawyers told Channel NewsAsia there are still potential challenges ahead.

The new court may not attract a significant number of cases in the near term as it would need "time to develop wide international acceptance", said Mr Alastair Henderson, managing partner and head of international arbitration practice for Southeast Asia.

"But, I don't think (the SICC) was set up as a short-term play. I suspect that the Government and the Courts are taking a longer term view, maybe even decades ahead, and in that context there is every reason to expect that the SICC will develop as a busy, popular and respected part of the local and international dispute resolution framework," he added.

Meanwhile, as with all cross-border dispute resolutions, there may be challenges in getting SICC's judgments upheld and enforced across jurisdictions, according to Mr Lye.

