

SPEECH BY SENIOR MINISTER OF STATE FOR LAW AND HEALTH EDWIN TONG
AT THE SIARB 37TH ANNIVERSARY ANNUAL DINNER
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Mr. Dinesh Dhillon, President of SI Arb

Distinguished Guests

Ladies and Gentlemen

1. Dinesh invited me to this event more than 6 months ago. At that time, we were still colleagues and partners. This is the first event I have accepted even before I went to the ministry, thank you very much Dinesh.

2. As we approach the end of 2018 in a few months' time, it's opportune for us at this stage to first look back on our achievements and milestones, what has happened in the industry, and also look up and see what is ahead of us. We need to see the opportunities that lie ahead so that we can seize them to develop this industry and the arbitration space, not only for each of you but also for Singapore as an arbitration hub.

3. I would like to focus on a couple of these points, starting with achievements in 2018.

Key Achievements in 2018

4. 2018 has been a rewarding year in many aspects for the dispute resolution space in Singapore and I'd think many of you would, I hope, agree with that. Let me just briefly recap some of these milestones.

- a. The first is that Singapore has moved up the ranks to be the third most preferred seat of arbitration globally in the Queen Mary White & Case survey. That is something that we take quite seriously and we always, although it's not only a race, measure ourselves against the other leading arbitral centres in the world.
- b. The Singapore International Arbitration Centre (SIAC) has been doing well. It's the third most preferred arbitral institution in the world. It also set the record for the highest number of new case filings and cases administered in 2017.
- c. We have made huge strides in the area of international mediation, which has become increasingly, at least anecdotally, a preferred method of dispute resolution, partly because parties see the need to preserve and maintain the relationships as we embark on larger projects to keep the relationship growing for the mutual benefit of all parties. So you've seen the advent and growth of international mediation.
- d. We have been successful in our bid to host the signing of the UN Convention on Mediation. We regard this as an achievement because for the first time we will have a UN treaty that will be named after Singapore, and the signing ceremony will take place in Singapore in August next year. Along with that, there will be an alignment of several other projects, such as seminars and

conferences, that will showcase Singapore's thought leadership particularly in mediation.

e. In the international litigation space, SICC has made great strides. A couple of leading cases have hit the news in the last few months. One of which has been the Macquarie's case on the ISDA master agreements. I met ISDA and team a few weeks ago and they were particularly quite happy with the way in which the master agreement was construed by the SICC. So there has been some traction there as well.

5. These achievements bear testaments to Singapore's role as the leading dispute resolution hub, one that is very much cross-border. Singapore is chosen largely because of the integrity of the judiciary as well as its rule of law. We have a trusted legal system, one that has been made possible by so many stakeholders, including all of yourselves, playing a key role.

6. But this is something we really cannot take for granted, and I think you will agree with me. The world is moving very quickly. We are disrupted all the time by technology; by new methods of doing things, new methods of delivering legal services. And we must keep reinventing ourselves - bigger, better, faster.

Our Ongoing Efforts

7. So we need to look ahead. We can't rest on our laurels, because laurels are the decorations of yesterday. We need to find ways to improve. To maintain

Singapore's competitiveness; we must look at dynamic, proactive and multi-faceted approaches to address the growing and varied demands of commercial users, so that we can bring more work to practitioners and arbitrators.

8. Legal services are just like any other services. If our services cannot meet the demands of the end users, we will lag behind and the end users will look to alternatives.
9. So we must continually review our laws to ensure that we remain relevant. They must not only look after the nation's interest but also promote the business interest. They must promote the industry and allow people operating the ecosystem to grow and find the opportunities.
 - a. For instance, we amended our laws in 2017 to allow for third party funding in international commercial arbitrations.
 - b. We have also introduced the Mediation Bill to enhance the enforcement of mediated settlements as a further option to resolve disputes. This also supports what is popularly known as the Arb-Med-Arb cases that I am very sure many of you are familiar with.
10. The growth of dispute resolution also needs to be supported by hard infrastructure. To this end, we can look forward to bigger and better premises at Maxwell Chambers. It will be triple its capacity by the time it opens next year, so we do look forward to that as well.

11. Dinesh earlier mentioned building thought leadership and I think that is important if we want to establish ourselves at the forefront of dispute resolution.

- a. A recent example is the Singapore Infrastructure Dispute-Management Protocol. That has been launched a few weeks ago to help parties involved in mega infrastructure projects to manage the differences and the disputes moving forward. The new protocol has already attracted interest from parties who seek to incorporate the protocol into their projects, estimated to be worth \$500 million or more. This is not a bad achievement given that it was launch only about two to three weeks ago.

12. I'm equally pleased to see that SI Arb has taken on the role of developing thought leadership seriously.

- a. Some of the examples include the Commercial Arbitration Symposium tomorrow. I am told that you have a very stellar cast of ladies who will be leading in many of the discussions. Dinesh told me that it is very progressive and I think that's probably true.
- b. Professor Khory McCormick is speaking to all of you as well next week and I think you are also embarking on collaborations with SCMA.
- c. I agree with Dinesh that the efforts on the Singapore Arbitration Journal, which will be launched in 2019 next year, together with your strong group of editors, sub-editors, assistant editors, really make for an advancement in thought leadership. I think it gives

players in this ecosystem - whether it is counsel or arbitrators - a platform to showcase knowledge and thought leadership on what can be done and also to give guidance on key issues in the arbitral space across the region.

13. All of this is, of course, work in progress. Some are more advanced than others but at MinLaw and the rest of the Government, we remain committed to working with the industry and stakeholders to grow this space.

14. If there is anything else that we can do and you feel that we can improve in the ministry to enhance the brand value of Singapore as an arbitration hub, please approach us and we will see how we can work together with you on that.

The Next Chapter

15. Next, as we talk about our past successes, we also need to recognise that dispute resolution, in particular arbitration services, is evolving at a very quick pace and we must move in tandem.

16. We have to identify and seize new opportunities that may arise - either here or abroad - to not only remain competitive but to also stay ahead of the competition.

17. I believe everyone is familiar with the Belt and Road Initiative. Let me say a few words about it.

18. First, the rise of China, both as an economy and as a leader of the dispute resolution space, cannot be ignored. It can be seen as a threat – or we can see it as an opportunity that we can tap on. Let me share with you what has been done – not only by the government but by the various stakeholders as well – in taking Singapore forward in this space.

19. As you probably know, the Chinese has set up two China International Commercial Courts – one in Shenzhen and the other in Xi'an. What is telling is that these are not their first-tier cities but they are comfortable enough to set these Courts up in the second-tier cities. They are new and modern – I don't know how many of you have seen it – it's state of the art and ran very efficiently. The websites that hosts these two commercial courts are in English and they have formed International Expert Committees with a panel of professional arbitrators and judges. They are keen to ensure that the CICC judgements have a very strong international element to it. All of this is in anticipation of the BRI projects that will happen.

20. This should be coupled with China's growing economic position. Again, I believe this needs no introduction but let me lay out a few parameters. They will be, if not already, an economic superpower. With that comes many potential growth opportunities. The annual foreign trade in China is in excess of US\$4 trillion. China is the largest recipient of foreign direct investment in the world. And finally, the value of Chinese enterprises overseas is in a region of US\$5 trillion. What is less known is that China has been the largest trading partner of Singapore for the past five years. This is an opportunity for us, in Singapore, to exploit the opportunities that the BRI presents.

21. Second, Singapore has also been the largest foreign investor in China for the last 5 years. These two facts, when put together, tell us that there may be many opportunities that allow us to follow the tides into Chinese investments, into the infrastructure projects that are happening at a breakneck speed, as well as the BRI infrastructural projects that the Chinese themselves have been encouraging.

22. I was recently invited by the SCMA to speak at the Distinguished Speakers Series and I think some of you were there at the session as well. The Distinguished Speaker there was Dr Yu Jianlong (Secretary General of the China Chamber of International Commerce) who is known to many of you here as being one of the members of SIAC on the panel. At the event, he shared the opportunities that we have in Singapore when it comes to BRI projects and endorsed the fact that the Chinese do value Singapore, as not just being one of the largest investors that they have, but also a collaboration partner that occupies a unique position. Singapore is valued as a neutral venue for Chinese investors to have the disputes resolved. Singapore is seen as perennially one of the first mentioned names. So we already have that position, and there are opportunities that we can avail ourselves to.

23. Singapore ourselves, on the G to G level, has been an early and a very strong supporter of the BRI project from 2013 when it was first launched by President Xi. That's either good foresight or maybe just good fortune. But either way, it presents us with an opportunity that we should not pass up.

24. The BRI, as you know, is a project that straddles almost 60 countries across Asia, Africa and Europe. And in Singapore, in Asia, we sit in a very valuable position, not just geographically but also in terms of our forum.

25. So we do need to take advantage of this and let me quickly sketch out what has been done at the larger infrastructure.

26. First, you may have read from the news that Chinese Vice Premier Han Zheng was in Singapore in September for the 14th Joint Council for Bilateral Cooperation (JCBC), which is the highest government to government cooperation between the Singapore and Chinese Government. For the first time, we were able to have on the agenda, an item that sets out cooperation on the BRI with legal, financial and professional services as one of cooperation platforms. That is important because it helps us thereafter to open doors to collaboration opportunities with the Chinese.

27. I would say this bodes well because evidently, as a trusted and neutral third-party, we are in a position to ride this wave along with the investments that will come in. There are already more than 7,500 Chinese companies located in Singapore, doing business and generating the offshore presence that Chinese have.

28. The importance of China as a market, is evident from SIAC's user profile – Chinese parties are SIAC's second top foreign users. SIAC can serve as a 3rd party institution for businesses who counter-party cannot otherwise agree on a dispute forum that is mutual.

29. So we can, and we should, leverage all of these and work with the Chinese a lot more.

30. What else has happened? The SIAC has signed MOUs with arbitral institutions of Shenzhen and Xi'an as well. These are two key nodes of the BRI dispute resolution forums. Those were done in August and September of this year.

- a. In October, SIAC signed an MOU with the China International Economic and Trade Arbitration Commission (CIETAC) to work on a cross-institution consolidation protocol to improve the efficiency and efficacy of arbitration for complex commercial disputes.
- b. In the mediation space, SIMC have MOUs with the China Council for Promotion of International Trade (CCPIT) and the Hangzhou Arbitration Commission which allow it to reach out to more Chinese parties.
- c. SIMC will also sign an MOU with CCPIT to set up a BRI Mediators Panel.
- d. To strengthen bilateral litigation and judicial cooperation, our Chief Justice Sundaresh Menon also co-chairs an annual roundtable with the Chinese PRC Chief Justice Zhou Qiang. Both Courts agreed to set up a Working Group to further look into and develop an infrastructure to support BRI disputes.

31. Next week, MinLaw will be hosting a delegation from Shaanxi, China.

- a. A delegation of 24 lawyers, comprising senior lawyers –managing partners, partners, associates - will be on a one-month attachment programme in Singapore. They chose Singapore partly because the strong degree of cooperation that we have expressed an interest in

and to develop the stronger bilateral ties we have with the Chinese. The Shaanxi lawyers will be attached to Singapore firms (some of you are here this evening), during which they will have the chance to network with Singapore lawyers to understand how work is done here. For the Singapore lawyers, it will allow them to engage with the Shaanxi counterparts to broaden and deepen those relations.

32. Ultimately, whilst we do all these, the opportunities must be seized by the individuals. They have to do that on a personal basis. Many of us here, as practitioners, know that it is the building of those personal ties, those relations, the trust, that engenders the fostering of good relations.

33. We have a window of opportunity now and to move forward, we need to have our practitioners, very much on the ground, engaging the Chinese counterparts. In this way, we can take advantage of the proliferation of the work that will come forth when the BRI projects do hit full steam.

34. In my discussions with our Chinese counterparts, I found that mediation has played a big role – largely because mediation is one opportunity where parties can resolve their disputes, especially in large ongoing projects that involve several parties.

35. On that score, we worked very closely with SIMC to promote the option of mediation, not just in the Chinese market but also with the Chinese companies that are located in Singapore.

36. As the landscape evolves and new opportunities emerge, the core skillsets of dispute resolution practitioners, arbitration practitioners, even mediation

practitioners, must change. This makes training, skill development and thought leadership very important. On that score, I must congratulate Dinesh and team for taking the development of thought leadership and skills upgrading so seriously. I think this is a great opportunity and I encourage SI Arb to work with the other institutions in Singapore like SCMA to advance and promote the Singapore brand. It is something that the other jurisdictions are not looking very closely at but it is an opportunity for us because of our unique position, not just geographically but also culturally.

37. I would encourage each of us to take advantage of that because that is the new growth area for Asia in the years to come.

Conclusion

38. Thank you very much again for inviting me here. I look forward to speaking to each of you as much as possible. Thank you.