

SINGAPORE INSTITUTE OF ARBITRATORS NEWSLETTER

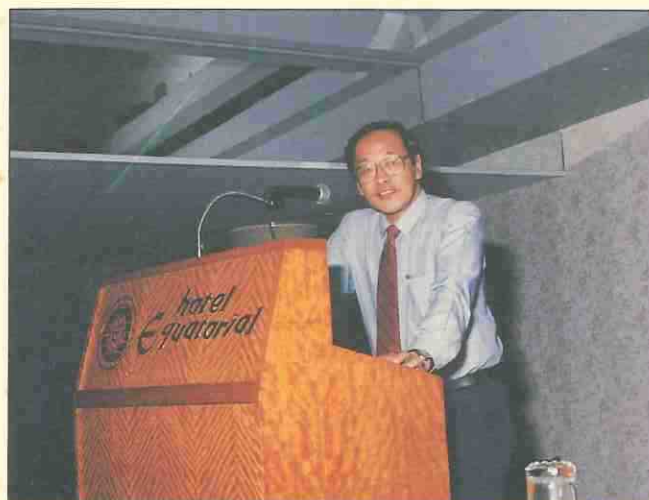
MITA (P) 199/07/93

OCT 1993 ISSUE No. 1

PRESIDENT'S STATEMENT

In assuming the burden of office as President of the Institute, it behoves me to cast a sobering thought on the manner in which the management and activities of the Institute had been undertaken by efforts of the Past Presidents; and on how, with the changing of the guards, we should draw on the past experience to build on the foundation already laid by continuing the process of consolidation, and to move forward to set the sight for *a new dimension of professionalism*.

Therefore, the theme which I envisage for this new term of office calls for a new approach to the concept of *commitment to change with an attitude of dedication*. The objectives are simply to raise the profile of the Institute at home, and on the international stage abroad; coupled with determination to forge closer links with institutions of higher learning and other overseas Institutes of Arbitrators, and not least, SIAC. This is a vital step which must be taken if we are to promote professional development for all through education and training.



Raymond Kuah Leong Heng - President of SI Arb

It is hoped that members of the Institute in general, and those members of the Council in particular, must indeed be motivated and encouraged to face the new and exciting times of change, and of challenges ahead, both at local and at international levels. Every Council member ought to put his shoulder to the wheel, and be active in key areas of the Institute's activities. Setting the house in order must therefore rank as top priority if we are to set a new level of professionalism in the arena of arbitration as an alternative dispute resolution to litigation.

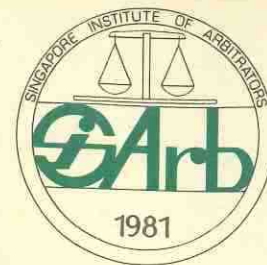
PUBLICATION COMMITTEE

Mr George Tan - Chairman
Mr Oh Joo Huat
Mr Daniel John
Mr C. S. Choong
Mr Raymond Kuah Leong Heng

CONGRATULATION TO JUSTICE OF APPEAL M. KARTHIGESU

The Institute wishes to convey its warmest congratulations to Justice M. Karthigesu, a Fellow of the Institute, on his recent elevation to the Court of Appeal as a Justice of Appeal. The Court of Appeal, previously consisting of members drawn from the Justices of the High Court, has been recently reconstituted as a permanent Court, presided by the Chief Justice. Justice of Appeal M. Karthigesu was a prominent legal practitioner and arbitrator before his elevation to the bench as a judge of the Supreme Court. During his term as a judge of the Supreme Court, he has written many judgments of the highest quality; those judgments that relate to construction contracts and shipping, in particular, have provided considerable guidance to members of the Institute in their decisions as arbitrators. The Institute looks forward, with deep interest, to his continued contribution to the development of the law as a Justice of Appeal.

EDITORIAL



Arbitration as an area of professional activity has grown in scope and complexity. Many commercial contracts nowadays contain clauses requiring disputes to be settled by arbitration. It is self-evident that there is never enough material, particularly those of local relevance, that can be of use to a practising arbitrator. There is an obvious need for any publication that can be a catalyst for intellectual exchange and debate in the various fields of arbitration. The first issue of Institute's newsletter, now in your hands, attempts nothing ambitious. This approach is likely to continue over the next few issues. For the moment, it will endeavour to convey news and distribute information and views relating to arbitration or our Institute in a manner that is easily readable. I hope this initial approach will engender contributions from members that will quickly establish this newsletter as a lively instrument for the exchange of ideas and information.

Although its initial aim is to provide light reading, it should be borne in mind that the newsletter may be viewed by its readers as the voice of the Institute; for this reason, certain standards and quality must be maintained. The publication committee hopes to achieve this by, first, formulating objective standards and criteria whereby the substance and style of materials received can be evaluated. Second, depending on the complexity of the contribution received, independent referees who are specialist or experts in the relevant fields will be approached for their views.

We certainly hope that consistent and active support from members of the Institute, particularly in contributing materials, would compel the maturation of the newsletter into a publication of quality and standing. We see little difficulty in this. Many of the Institute's existing members are already prominent people of outstanding abilities in their respective fields. We therefore look forward to receiving your materials soon. Any suggestions or advice that anyone may have will also receive consideration by us.

ADVANCED ARBITRATOR TRAINING COURSE

8-10 November 1993

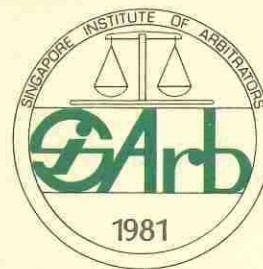
Organised jointly by the Singapore Institute of Arbitrators, the American Arbitration Association (Asia-Pacific Center) and the SIAC, this course is specially designed for lawyers with not less than 5 years litigation experience, or professionals with at least a similar time of experience in dispute resolution. The course will focus on the conduct and control of international arbitrations. Attendees are required to sit through an arbitration and an award-writing examination. Successful participants with not less than 10 years of litigation or arbitration experience will, after approval, qualify for admission as Fellows of the Singapore Institute of Arbitrators. (FSI Arb).

Attendance is limited to first 45 registrants who qualify.

Please apply to :-

SIAC, 1 Coleman Street, #05-08 The Adelphi, Singapore 0617

Tel : 334 1277 Fax : 334 2942



THE SINGAPORE INSTITUTE OF ARBITRATORS

COUNCIL MEMBERS FOR THE YEAR 1993/1994



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Raymond Kuah Leong Heng
Chartered Architect + Arbitrator



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Mr C. Abayasekara
Principal Lecturer

FEATURE

This paper was delivered by Mr Tan Boon Teik on the occasion of his conferment as Honorary Fellow of the Singapore Institute of Arbitrators on 24th July 1992.

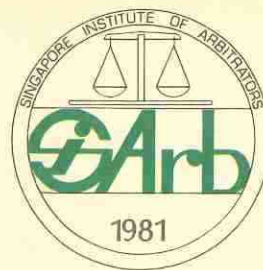
INTERNATIONAL COMMERCIAL ARBITRATION

by Mr Tan Boon Teik, Chairman SIAC

Singapore is an International Trading Centre. It is the hub of commercial activity for the region. Bordering the Pacific Rim, it occupies a strategic location in an area of economic growth. It is, therefore a natural choice for many an entrepreneur looking to portake in activity that is generating and making great strides through carrying on business in a flourishing corner of the globe.

All this trading activity has been made possible by the encouragement which the Government of Singapore has given by creating the right atmosphere - the sound codes of conduct for guidance, together with such self-regulatory bodies as those of the professions have given men of business the confidence with which to pursue their own efforts towards self-advancement. This in turn has helped the state in its economic progress. So we have now a formally established infrastructure which has in the last few decades or so given rise to commercial activity of a transnational nature that rival the great trading cities of the world.

It is inevitable with the kind of commercial



Mr Tan Boon Teik, Chairman SIAC.

transactions taking place in Singapore that disputes that are trade related and of an international character will arise. The need for dispute resolution mechanisms has long been felt in Singapore. While the traditional methods of going to the law and resorting to litigation has always been available, their structure and need of procedural requirements make them less than attractive specially in international disputes.

It is, therefore, of another instance of improving the State's business infrastructure that the SIAC was conceived of. In this instance it was merely an extension of the services that Singapore seeks to provide to those who have come here to trade and conduct business activities. No doubt as the Centre develops, as confidence in its conduct of cases increase with the expertise of its panel of arbitrators in the various specialised fields of arbitration - more business will be attracted to the Centre.

Therefore, the Centre must provide services that are unquestionable in regard to integrity and independence and must also be seen to so conduct its affairs. Towards this end the Centre was first envisaged as an institution established by its end users totally independent of Government.

This still is the long term aim of the Centre. However, the initial outlay of funds in setting up the Centre had to be found somewhere. Two Statutory Boards concerned with the promoting of business and commercial activity in Singapore came to our assistance. Today, it is through these two institutions that the Centre organised as a company limited by guarantee-totally non-profit-making-has been able to function.



I am glad to say that it has made great headway in gaining popularity and it is our hope that continued support-by the international business community as well as the professionals and local businessmen will continue to grow. The Centre has gained recognition abroad and we have entered or are in the course of making arrangements for mutual co-operation-with Arbitration Centres globally, in London, America, Australia, China and Hong Kong.

Foreign lawyers are often at the Centre. Together with local advocates and their clients, the Centre has been a hive of activity of late.

All this development is most encouraging. We are only less than 9 months away from the date we set-up the offices of the Centre and if all this activity is any indication, it is as clear a sign of the popularity of arbitration here in Singapore as one can get but it is early days still.

A new centre's reputation and its potential for future success is as great as its panel of arbitrators. It is important that those who serve on our panel take their work as seriously as the nature of the disputes warrant. Certain steps have been devised by the Centre to encourage this happening. Training courses are being conducted from time to time but as these courses are time-consuming in preparation, they are of necessity to be limited in duration and can only be nominated at the convenience of experts whose assistance we seek.

Visits by potential users to the Centre is always encouraged. We are slowly seeking out specific niches for our own Panel of Arbitrators. Being a seaport of importance as well as an oil trading centre, we see the Centre paying specific attention to certain areas of arbitration. Commodity futures market here will see the growth of advisors and professionals specially schooled in practices and field of expertise pertaining to these markets - they could conceivably be a source for recruitment for our panel of specialist - arbitrators in the future to deal with disputes arising from these contracts. This is just only an example of the extent to which the Centre can grow with business in Singapore.

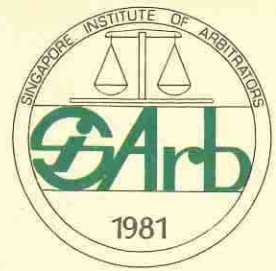
It is, however, important to realise the continued popularity of its true place in the field of arbitration, can only be properly judged in the context - of specific time frames. The period of gestation is a long one and the success it aspires to can only be attained if we keep our standards and facilities at the highest levels. Accordingly the Centre's aim to build up a support-staff of sufficiently trained



personnel to assist parties to an arbitration - must be one of priority. In Singapore, so great are the pulls of the private sector in getting such personnel that we have to constantly on the watch out for persons who perform efficiently.

Your institute which is considerably older than the Centre can play a significant role in helping to make Singapore a much desired venue for arbitration.

Indeed, I would remind you of the facilities which Singapore International Arbitration Center offers parties wishing to avail themselves of.



There is an added advantage attached to proceedings conducted at the Centre, besides the use of the clerical services, fax machines etc and that the Centre's Rules are an adaptation of the UNCITRAL rules which should appeal to parties who hail from different countries and who wish to ensure adherence to procedures acceptable to their own jurisdictions. Furthermore, it is useful to bear in mind the fact that enforceability is an important consideration in choosing one's venue. In this regard the fact that Singapore is a signatory to the UN Convention of 1958 makes awards made here by an Arbitral Tribunal enforceable in all other countries who have acceded to the Convention.

The Singapore Institute of Arbitrators was formed in April of 1981. It brought together persons belonging to various trades and professions. They all had a common interest - to know more about the process of arbitration and the law that had evolved around the practice of resolving disputes outside of the Courts of Law.

The Institute has since made such a success of itself and at the same time given the arbitration process the status and recognition it deserves. What is more - it has to a large extent been responsible in securing its members acceptance as professionals in the field of arbitration.

By conducting courses on Arbitration Law & Practice and by affording training opportunities to both members and other interested parties, your Institute has performed sterling service in promoting true professionalism in the business of Arbitration.

I must also acknowledge the part the Institute played in the formative years of the SIAC. Your President - Dr Myint Soe and Mr K. Y. D. Gin, Past President as well as Mr Raymond Kuah were all actively involved in the Working Committee I as AG had set up.

I am sure the advent of the Centre can only enhance your Institute's reputation and functions. The Institute and the Centre can complement each other in our efforts to popularise the idea of Singapore as an International Arbitration Centre.

This is so self-evident that to repeat our respective aims which are at one in this respect - would be quite otiose and unnecessary.



My hope is that our two institutions will join together in our efforts to serve the public and in that way better achieve our aims and objectives.

I congratulate the Institute in recruiting so many members. It does go to show how effectively one can gather together successfully persons of resource and dedication, where there is a worthwhile cause around which to rally support, and what better cause can there be than to provide disputants alternative means of settling their disputes than going to law.

MEMBERS' NITE - 1993

The Institute held its "Members' Nite" this year on 7th May 1993 at the Executive Club, OCBC Centre. The Guest of Honour on the occasion was Mr. Justice Warren Khoo, who gave a highly informative and instructive talk entitled :

"Court Supervision of Arbitration-Why?" The response was overwhelming with members attending along with their spouses and friends, who were later treated to a magic show.



Mr. Justice Warren Khoo



From the left :
Mr Tan Boon Teik,
Mdm Do Y Thanh from
Ho Chin Minh City

FELLOW

Mr Leslie Chew
Mr Daniel John
Mr Richard Tan

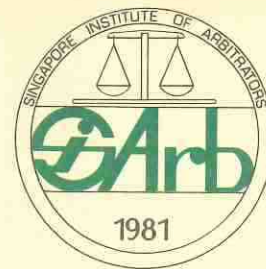
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Mr Ralph Martin
Mr Mogens H. Henningsen
Mr Neil Douglas Woodcock
Mr Louis Chan Weng Kong
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ASSOCIATE

Mr Lim Chung Wei
Mr See Choo Lip



PAST PRESIDENT'S MESSAGE

by Dr. Myint Soe

In writing this message, I do so with a sense of sadness and mild disappointment.

In assuming the mantle of President of the Institute four years ago, I had high hopes that much progress can be made in furthering the aims of the Institution. I had also hoped that much progress can be made in furthering the aims of the Institute. I had also hoped that Arbitrations would become more popular in Singapore.

With regard to my first hope, I found that our Institute has inherent problems; firstly, the question of finance which even made the publication of a Newsletter difficult; secondly, in getting members at least interested (if not dedicated) in assisting the growth of the Institute; and thirdly, (related to the second) our members as well as Council and Committee Members were already involved with their own parent organisations to which they belonged and therefore had little time or zeal for the Institute.

With regard to my second hope, we were lucky in that the Singapore International Arbitration Centre (SIAC) was formed in 1991, with the then Attorney General, Mr. Tan Boon Teik as Chairman. Indeed, we were also fortunate that Ken Gin (past President), Raymond Kuah (Vice President) and myself were invited to be in the Working Committee to explore its formation. The three of us spent many hours attending meetings and learnt quite a bit from the discussions that took place. The Working Committee was ably chaired by Mr. Warren Khoo (now Mr. Justice Warren Khoo).

After the formation of the SIAC, some of our Fellows and Members have been put on the Panel of Arbitrators recognised by the SIAC. The activities of the SIAC has increased the awareness of the public in arbitration; and indeed we were glad to note that in 1992 and 1993 the membership of our Institute has increased (especially lawyer members). We were also very happy that Mr. Tan Boon Teik accepted the Honorary Fellowship



Dr. Myint Soe, Past President SI Arb

conferred on him by the Institute. I must also place on record the understanding and co-operation received from Mr. Lawrence Boo, CEO, SIAC.

With the publication of this Newsletter, I trust that at least it would have some effect in making our members closer to the Institute and participate in its various activities. For the past few years we have had an Annual Dinner (sort of Members' Night) for members and their spouses and friends; but in spite of a free flow of drinks and subsidised food and entertainment, the response has not been too encouraging.

I am sure the incoming President and his Council will reserve efforts to gain members' co-operation and participation. Thus, I understand that new seminars and courses are on the cards.

In conclusion, I ought to point out that the growth of arbitration in Singapore has to some extent been hindered because of its cost. Arbitration should be swift and cheap. However, especially in cases where lawyers are engaged to take part, arbitrations tend to be prolonged and hence becomes very expensive. It is not uncommon for arbitrations to extend into weeks at a cost of six figures. Hence, parties would rather face litigation, as litigation has now become much quicker in Singapore.