

SINGAPORE INTERNATIONAL ARBITRATION ACADEMY

WELCOME CEREMONY

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SINGAPORE

KEYNOTE ADDRESS

BY MR STEVEN CHONG SC, ATTORNEY-GENERAL OF SINGAPORE

Introduction

Distinguished guests, ladies and gentlemen, on behalf of the Attorney General's Chambers, the NUS Faculty of Law, and the Centre for International Law, I welcome you to the opening of the Singapore International Arbitration Academy.

2. This Academy is a first for Singapore. It was conceived by my predecessor, the then Attorney-General and now Chief Justice Sundaresh Menon, as a means of providing an intensive training programme for lawyers both in the private and public sectors who may have to deal with complex international arbitral proceedings.

3. The opening of the Academy was announced by Singapore's Minister for Foreign Affairs and Minister for Law, Mr K. Shanmugam SC, at the 21st International Council for Commercial Arbitration (ICCA) Congress held here in Singapore in June this year. At the ICCA Congress, Chief Justice Menon, then the Attorney-General, noted that

“In a region where arbitration is set to grow even more dramatically in the coming years, the Academy fills a gap in the training and formation of practitioners by giving them an insight into real life issues they will encounter with an emphasis on practical learning from a cross-cultural perspective.”¹

4. As Attorney-General, I join in my colleagues’ enthusiastic support for the Academy. The Academy aims to provide world-class capacity-building training to both private practitioners and in-house counsel, as well as to public sector government officials in the region. You will see that the Faculty of the Academy includes over fifty leading arbitration practitioners, arbitrators and senior government officials. They have been hand-picked to teach in an innovative – and intensive – programme which focuses both on substantive knowledge as well as on practical approaches to the arbitration process. The purpose of imparting these skills and knowledge is twofold. First, it is to give you, the participants, an edge in your future practice. Secondly, and more importantly, it is to raise the level of arbitration expertise not just in Singapore, but regionally.

¹ Source: Report by ChannelNewsAsia, 11 June 2012.

(See <http://www.channelnewsasia.com/stories/singaporelocalnews/view/1206986/1/.html>)

The growth of arbitration and its relevance to Singapore and the region

5. As Attorney-General, I believe the Academy's programme carries particular relevance for the work of my officers. As you all know, governments often enter into contracts for various commercial transactions. Arbitration is a common feature of such contracts and is designed to increase the confidence of both parties that each will comply with its contractual obligations, by providing that if a breach arises, an effective means of dispute settlement can be employed.

6. More recently in Asia, states have embraced investment treaties and free trade agreements that contain investment protections. Such treaties commonly provide that, in the event of disputes arising between the investor of one state Party and the other State Party, such disputes can be submitted to binding international arbitration. In fact, the world's first bilateral investment treaty, signed on 25 November 1959, was concluded between an Asian state, Pakistan, and Germany, and formed part of the process of reconstruction in the aftermath of the Second World War. Since then, over 2,700 such treaties have been signed by at least 179 countries around the world. The reality is that investor-state claims are going to become more prominent in the Asia-Pacific region.

7. We are, as Chief Justice Menon noted at the ICCA Congress, in a golden age of international arbitration, one in which more cases than ever before have been committed by agreement of the parties to arbitration rather than the courts. The exponential growth

in arbitration that has occurred in major centres of the world such as London and Paris is occurring now in Asia, with important cases being conducted in Seoul, Hong Kong, Tokyo, Kuala Lumpur, and of course Singapore.

8. Over the years, Singapore has invested in diverse efforts to grow Singapore as a hub and venue for arbitration. In this regard, our natural advantages, such as our geographical proximity to key Asian economies, including India and China, as well as being recognised as a neutral venue has worked in our favour. The various stakeholders in the development of the arbitration sector, such as the Ministry of Law, the Singapore International Arbitration Centre (SIAC), my Chambers, the Singapore Academy of Law, the Law Society and the Singapore Courts, have continued to work in tandem to create a liberalised environment that is conducive and attractive for arbitration.

9. For example, our legal framework and laws support international arbitration and are aligned with international best practices. To keep our arbitration legislative framework up to date, we continuously review and update our International Arbitration Act. This Act was amended in 2009 and again most recently in 2012. In addition, Singapore is also a signatory to the New York Convention and arbitration awards from Singapore are enforceable in over 140 countries around the world.

10. The opening of Singapore's Maxwell Chambers in 2009 has further greatly facilitated the conduct of international arbitration in Singapore. Maxwell Chambers is the

world's first integrated dispute resolution centre whose mission is to provide one-stop, state-of-the-art facilities, immediate translation services, transcription services and a courtroom-like atmosphere, for the conduct of arbitration hearings.

11. We have managed to attract some of the top arbitral institutions in the world, including the American Arbitration Association (AAA), the Permanent Court of Arbitration, the International Chamber of Commerce's International Court of Arbitration (ICC-ICA), the International Centre for Settlement of Investment Disputes (ICSID) and the World Intellectual Property Organisation's Arbitration and Mediation Centre, to complement local institutions such as SIAC and the Singapore Chamber for Maritime Arbitration. They are housed in Maxwell Chambers. In short, a complete eco-system for the arbitration regime

12. The Singapore Courts are supportive of the arbitration process with a history of minimal judicial intervention and an emphasis on party autonomy. The Courts have also consistently supported the finality of awards from arbitrations. The judiciary has shown in several cases that its view of its own role is to support, and not displace, the arbitral process.

13. With these developments, we expect even more arbitration cases to come to Singapore. In our view, as international arbitration takes deeper root in Asia, not only in the sphere of commercial relations between private parties, but in the sphere of disputes

between investors and host States, it is incumbent upon all of us, government officials and private practitioners alike, to educate ourselves as to best practices in international arbitration, issues of ethics and professional conduct, practice and procedure, and to develop an understanding of the developments of legal trends in this field.

The Singapore International Arbitration Academy

14. For that reason, I am very pleased to be here today to witness the opening of the Academy. The organisers have sought out the very top practitioners in this field to teach you in the intensive programme which you are about to commence. I have no doubt that with such an impressive collection of experts to kick-off its inaugural session, the Academy is well on its way to becoming one of the premier international arbitration training programmes in the world.

15. The process of international law building is inexorable. It may go in ‘fits and starts’ but one can see for example in the area of investment protection, a clear and profound trend in the commitment of states to the fair treatment of foreign investors who commit capital to the territory. Despite the best intentions of investors and host States, disputes will inevitably arise, and it is important for our professionals to not only understand how to bring a claim, but how to defend one as well.

16. It is equally important for government officials who may not have had much experience in dealing with complex international disputes, to fully comprehend the process of this form of dispute settlement. Officials need to understand the role of party autonomy, the appointment of arbitrators, how cases are dealt with procedurally, how to deal with external legal counsel, what kind of government documents may be required to be produced as evidence in the proceeding, and so on.

17. The 16-day Academy programme has therefore been created with two distinct but related tracks: (1) a ‘Practising Counsel Track’, which focuses on the skills and issues relevant to counsel representing clients in arbitration proceedings; and (2) a ‘Government Advisor/Instructing Solicitor Track’, which covers issues such as the selection, instruction and management of external counsel. The Academy covers both substantive issues, as well as practical matters, in order to better equip your legal arsenal, regardless of whether you are in the private or public sector. You will see that the Academy’s programme has been designed to help you accelerate your learning curve and to learn from the experience – and the mistakes – of others who have gone before you. The old adage of ‘no pain, no gain’ does ring true when it comes to arbitration. But there is no reason why it cannot be *someone else’s* pain which is your gain!

18. One final point worth noting: the Academy believes that candid discussion is essential. Counsel rarely receive much in the way of feedback from judges or arbitrators whom they may have appeared before. If a judge makes a reference to counsel’s “able

argument”, it is usually a sign that he or she is about to reject it! Therefore, a number of sessions have been organised where candid advice and feedback can be given. They have arranged for in-house counsel with experience in using external counsel to come and speak frankly about their experiences. The Academy has also asked leading arbitrators, all experts in their field, to come and discuss with you what they think makes an effective counsel, and to share inside tips and their tricks of the trade.

19. Finally, as an expression of the principle that “doing is learning”, the advocates participating in the Academy will have an opportunity to put what you have learnt into practice. You will be given the opportunity to present oral arguments, and your presentations will be recorded on video, to allow for one-on-one video critiques. It is surprising how many things you can learn about your presentation styles and habits simply by watching yourself speak!

Concluding remarks

20. In short, the Academy wants to convey as much practical knowledge and experience as possible to you. So let me complete my remarks by once again welcoming you to the Academy. I wish you an exciting, indeed exhilarating next three weeks. I hope that you are challenged by the subjects and that you will engage in interesting and productive discussions. Thank you.

