

**Conference on *International Litigation in the Asia Pacific*
Wuhan, 23 - 24 September 2013**

**QUESTIONNAIRE ADDRESSED TO STATES PARTICIPATING IN THE ASIA PACIFIC
REGIONAL EVENT ON INTERNATIONAL LITIGATION**

The purpose of the Questionnaire is to collect information from States regarding the recognition and enforcement of foreign judgments and issues of international jurisdiction in the Asia Pacific region. This information will be used by the Permanent Bureau of the Hague Conference to create a country profile for each State that will assist delegates during the round table discussion session on the first day of the Conference. It is also hoped that the detailed information in the responses to this Questionnaire may be of use to participants beyond this conference.

The concept for the round table discussion session stems from the work the Permanent Bureau is currently undertaking on two key aspects of private international law in cross-border litigation: international jurisdiction and the recognition and enforcement of foreign judgments. A detailed chronology to the background of the work undertaken by the Hague Conference in this area can be located on the website of the Hague Conference < www.hcch.net >, under "Specialised Sections", then "Judgments Project".

The Questionnaire has two parts. Part I contains questions regarding the recognition and enforcement of foreign judgments and Part II contains questions on jurisdictional issues in international litigation. Please note that the Permanent Bureau has used the same terminology in the Questionnaire as that which was used in the two detailed notes that the Permanent Bureau recently prepared for the work being undertaken in this area. These notes identify the issues for consideration in the study of the recognition and enforcement of foreign judgments and jurisdiction in international litigation. For more information on these two topics and for a contextual background to the Questionnaire, please refer to these two notes which are located on the Judgments Project webpage listed above. The notes are titled, "Annotated Checklist of Issues to be discussed by the Working Group on Recognition and Enforcement of Judgments" (Note 1) "Issues Paper on Matters of Jurisdiction including Parallel Proceedings" (Note 2). A glossary of the terminology used is also located on the Judgments Project webpage, titled Annex I: Glossary to the Annotated Checklist.

The Permanent Bureau would very much appreciate receiving your response to this Questionnaire by 2 September 2013. Responses should be sent by e-mail to secretariat@hcch.net with the following heading and indication in the subject field: "Questionnaire concerning international litigation – [name of State]". Your co-operation in responding to this Questionnaire is very much appreciated and will greatly assist during the round table discussion session.

Identification (For follow-up purposes)

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PART I – RECOGNITION AND ENFORCEMENT OF A FOREIGN COURT DECISION

NOTE: If your State has a non-unified legal system (*i.e.*, two or more systems of law which apply in different territorial units), and the information is available, please indicate the jurisdiction/s referred to in your answers.

1. Is your State a party to any bilateral and/or multilateral treaties and/or agreements that govern the recognition and enforcement of foreign judgments?

YES

NO

If yes, please specify.

N.A.

2. Does your State have rules of national law that govern the recognition and enforcement of foreign court judgments in your State? (*i.e.*, legislation or case law)

YES

NO

If yes, please specify.

The Reciprocal Enforcement of Commonwealth Judgments Act ("RECJA") (Cap 264) or the Reciprocal Enforcement of Foreign Judgments Act ("REFJA") (Cap 265) allow civil judgments from the superior courts of UK and some other countries to be registered for enforcement in Singapore, provided that the conditions set out in these respective laws are met.

The Maintenance Orders (Reciprocal Enforcement) Act (Cap 169) allows maintenance orders made in reciprocating countries to be enforced in Singapore.

(Copies of these legislation are annexed)

In addition, parties with a civil judgment that cannot be registered for enforcement may bring a civil claim in the courts of Singapore based on that foreign judgment.

3. Which courts in your State hear applications for the recognition and enforcement of foreign judgments?

Please specify.

Only the High Court hears applications to register foreign judgments.

A civil suit based on a foreign judgment can be brought before either the High Court or the Subordinate Courts, depending on the amount claimed.

4. Are there specific conditions that need to be met in order for a judgment to be recognised and enforced by a court in your State?

YES

NO

If yes, under what circumstances (*e.g.*, the jurisdiction of the foreign court must be recognised, the respondent to the application for recognition and enforcement must have assets in your State, the judgment must be a monetary judgment that is final and conclusive)?

Under the RECJA, s 3(1) judgments of the courts of the United Kingdom and other Commonwealth countries to whom the Act has been extended are registrable but the judgment. After a judgment has been registered, the judgment debtor may apply to have the registration set aside for one or more of the reasons set out under s 3(2) of that Act (see Annex A).

Under the REFJA, a judgment of the court of a country to whom that Act applies can be registered provided the conditions set out in s 4(1) are met. After the judgment is registered, the judgment debtor may apply to have the registration set aside for one or more of the reasons set out in s 5 of that Act (see Annex A).

5. Can a court in your State refuse to recognise and enforce a foreign court judgment that otherwise meets the specific conditions identified in Part I question 4?

YES
 NO

If yes, under what conditions (*e.g.*, procedural fairness, lack of proper notice to the defendant, an inconsistent foreign or domestic judgment, parallel domestic proceedings)? In addition, are those grounds for refusal raised on the court's own motion or by the party opposing the recognition and enforcement application?

Registration under both RECJA and REFJA can be set aside on the grounds referred to in the answers to question 4 above.

6. Is recognition and enforcement of a foreign judgment subject to a special procedure before a court in your State?

YES
 NO

If yes, please describe the procedure.

Leave of the Court must be obtained before a foreign judgment can be registered for purposes of enforcement - see Order 67, Rules of Court (Cap 322, R 5) (see Annex A).

No special procedure applies if the foreign judgement is sought to be enforced as a civil claim.

7. What types of judgments are entitled to recognition and enforcement in your State?

Judgments entered in default
Comments.

Default judgments can be enforced provided they are final and conclusive in the originating jurisdiction.

Provisional and protective measures
Comments.

N.A.

Non-money judgments

Comments.

N.A.

Judgments awarding non-compensatory damages
Comments.

Judgments awarding non-compensatory damages can be enforced provided it is not contrary to public policy, and it does not amount to enforcement of foreign penal, revenue or other public laws.

Other.

If other, please specify.

N.A.

8. In your State, is it possible to appeal a courts decision to recognise and enforce a foreign judgment?

YES
 NO

If yes, under what circumstances.

If the foreign judgment is sought to be enforced by way of registration and is registered, the judgment debtor may apply to court to have the registration set aside for the reason set out in the RECJA and REFJA. A decision of a court to either affirm or set aside the registration of a foreign judgment is subject to the usual rules governing appeals from judicial decisions.

If the foreign judgment is sought to be enforced by way of a civil claim based on the judgment, the usual rules governing appeals would apply.

9. What is the frequency of applications for recognition and enforcement of foreign court decisions per year? It is appreciated that this information may not be readily available in your Ministry however; such information may possibly be obtainable from the courts in your State.

0-5
 5-10
 10 - 20
 more than 20.

Any comments.

THE HIGH COURT RECEIVED AN AVERAGE OF 23 APPLICATIONS PER YEAR IN THE LAST 3 YEARS TO REGISTER FOREIGN JUDGMENTS.

10. How many applications for the recognition and enforcement of a foreign court decision are granted in your State?

0-5
 5-10
 10 - 20
 more than 20.

Any comments.

AN AVERAGE OF 20 APPLICATIONS WERE GRANTED PER YEAR IN THE LAST 3 YEARS.

PART II – JURISDICTIONAL REQUIREMENTS

1. Is your State a party to any bilateral and/or multilateral treaties and/or agreements that govern issues of jurisdiction in international litigation?

YES

NO

If yes, please specify.

N.A.

2. Does your State have rules of national law that govern issues of jurisdiction in international litigation in your State? (*i.e.*, legislation or case law)

YES

NO

If yes, please specify.

The jurisdiction rules of the Singapore do not distinguish between domestic and international litigation. Under s 16 of the Supreme Court of Judicature Act (SCJA), the jurisdiction of the High Court is founded on either service (within or outside jurisdiction) or submission (see Annex A).

3. Have the rules of international jurisdiction in your State recently been reviewed? (*e.g.*, by the legislators, law reform bodies, other professional bodies).

YES

NO

Comments

The Law Reform Committee of the Singapore Academy of Law issued a Report on the Enforcement of Foreign Judgments in June 2005 (see Annex B).

4. In which of the following situations would the courts in your State have jurisdiction:

where the defendant voluntarily submits to the jurisdiction

Comments

See s 16(1)(b) SCJA (see Annex A).

where the defendant is domiciled or resides in your State

Comments

where the defendant carries out regular commercial activity in your State

Comments

where the contract is performed or there is a breach of contract in your State

Comments

where a contract is concluded executed between parties in your State
Comments

where the parties to the dispute have designated the courts of your State for the purpose of deciding disputes between them?
Comments

where an injury occurs to a person as the result of a tortuous act occurring in your State
Comments

where damage occurs to tangible property as the result of a tortuous act occurring in your State
Comments

where the defendant does not reside in your State, but the defendant's immovable property is held in your State
Comments

Other
Please specify

Besides voluntary submission, the Singapore courts have jurisdiction if the defendant is validly served with an originating process. If the defendant is present in Singapore, he may be served without leave of court. If the defendant is outside Singapore, service is possible only with leave of court. Leave will only be granted when one of the conditions under Order 11, rule 1 of the Rules of Court (see Annex A) are met. The above factors are all found in Order 11, rule 1.

5. Is the nature of the above-mentioned grounds such that without these present a court is not entitled to hear a case?
 YES
 NO
Comments.

While Singapore courts have jurisdiction over a matter where either proper service of its process has been established or the parties have voluntarily submitted to its jurisdiction, the courts will decline to hear the case if it determines that it is not the natural forum for the trial. This was illustrated in the judgment of the Court of Appeal in *JIO Minerals FZC and others v Mineral Enterprises Ltd* [2011] 1 SLR 391 at [38] to [44].

6. In which of the following situations would a court, otherwise having jurisdiction as described in part II question 4, decline to exercise its jurisdiction in your State:

where there are identical proceedings (proceedings involving the same parties and the same cause of action) occurring in another State's courts
Please indicate the relevant source of law and any comments.

As stated above, the Singapore courts will decline to exercise jurisdiction if it is not the natural forum. This is one factor that our courts will consider.

where there are related proceedings (those proceedings that do not have identical parties and causes of action but have related causes of action and parties)
Please indicate the relevant source of law and any comments.

Same as above.

where the court determines that it is an inappropriate forum
Please indicate the relevant source of law and any comments.

Same as above.

where it is in the interests of justice to do so
Please provide any comments

This is possible, but the Singapore courts will balance the considerations of justice to the parties with that of international comity.

other
Please indicate.

N.A.