

Comparing the International commercial Arbitration rules of Switzerland (Geneva) and Singapore

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Introduction

Settlement that are happening out of the court with the help of mediation and conciliation that all comes under arbitration mechanism. When globalisation is increasing day by day in every country and every one is expanding their business with mergers in multinational companies across the globe, that has shown the requirement of a unique body to handle the cases because each country is having their own rules and regulation that are applicable in their country only and that is not applicable in other countries of the world so for settlement they require a uniform code of conduct so that both parties could understand that and implement that in their own countries. By seeing the latest development in arbitration process, we can say that there was a requirement of international commercial arbitration, that was so important for every country of the world.

International commercial arbitration is applicable in whole world because countries have made their own arbitration laws so that before indulging in any contract the parties should read and understand the arbitration law of other parties as well, after analysing and interpreting the laws they should enter into any contract. Arbitration law are more easier because the cases could be handled more easily within limited resources that is time and money, so it's more appropriate for multinational deals because their rules and law are controversial and typical to understand, so in this paper we will discuss the rules and laws of international commercial arbitration of different countries of the world.

Legal history

Singapore international arbitration centre

Singapore international arbitration centre was formed on the recombination of economic committee in the year 1986 so that the commercial disputes could be formalised in more border and simple way and in the year 1990 it was formally established as non-profit public company limited by the economic development board, the main objective of SIAC was to develop Singapore business commercially and economically all over the world so that one day it could become business and investment hub and in the year 1990 Singapore academy of law taken the responsibility of SIAC so that it could be commonly run in more proper way and now Singapore business federation (SAF) is the biggest commercial chamber in terms of multinational business that has the unique chamber all over the world and now it had

diversified its membership from all over the world that consists of 20,000 companies and industrial associations from all over the world.

Swiss international arbitration law

The parliament of Switzerland has adopted a comprehensive federal act on private international law on 18 Dec. 1987 that was prepared by group of people from 1973 onwards it has taken year to year from a productive internal law so that it could enlarge the Switzerland economic development in the terms of international commercial arbitration. The Swiss international law deals with 200 articles that are given in chapter 12 of international arbitration that has commonly evolved for the concordat that is international convention on arbitration (CIA) its objective and roles are two important for arbitration world, as now Switzerland is the host country to many international mergers and arbitration that are dealing all over the world with top arbitration processes that are developing purely for commercial, interstates or international deals.

Arbitration rules in Singapore

Arbitration rules are commonly used to resolve the commercial disputes arising between the parties so it requires different organisation so that the disputes could be resolved within time period without any conflictual points.

1. Some of the organisation that are helping in arbitration process are:

- Singapore international arbitration centre (SIAC)
- International chamber of commerce (ICC)
- Singapore chamber of maritime arbitration (SCMA)

This organisation is present so that the commercial conflicts could be resolved with limited timeframe without having greater loss.

2. Arbitration in Singapore is governed by two main bodies that are:

- International arbitration act (IAA)
- Arbitration act (AA)

The important points of international arbitration act are:

3. Section 5(2) that says that

- Whenever there is an arbitration agreement one has to be, from outside the Singapore.
- Outside states means that their business should be in some other states of the world.

4. The UNCTRAL has greater emphasis on international arbitration act that shows some of the modification (section 3(1) IAA) The arbitration act has adopted many provisions from the UNCTRAL modal arbitration law so that more diversities should be given to the arbitration law of Singapore and courts could examine the domestic cases more easily.

5. Non arbitration situation is:

Some of the non-arbitration disputes that Singapore international arbitration does not cover:

- Citizenship or statutory licensees
- Validity of registration of tracts marks or patents
- Copyrights
- Winding up of companies
- Bankruptcies of debtors
- Administration of estates

This are the points that Singapore international arbitration does not take into its effect because they are the subject of there own states or related to other states as well.

Arbitration rule in Switzerland

1. International arbitration proceedings of Switzerland say that any arbitration agreement should be in written form (Article 178(1) SPILA article 178(2) say that the arbitration agreement will be valid only when it will fulfil all the requirement of law from both the countries that going to be merged into an agreement.
2. Article ii (1) of the New York convention say that all the requirement of the valid arbitration agreement should be there in any contract that are mentioned in this article so that there should be no terms and condition left for the valid agreement and this article is binding on Switzerland since 1965.
3. Article 19 of the swiss code of obligation say that under swiss law parties are free to agree on whatever they wish in their arbitration agreement but the condition is that it does not violated mandatory law, public policy, morality or the right of legal personality so this are the point that should not be violated in any arbitral agreement.
4. For fulfilling the arbitral agreement they have to follow the mandatory provision of chapter 12 of SPILA, that has to be followed in any arbitral agreement. some provisions that are mandatory be followed are.
 - Article 177(Subject matter arbitrability)
 - Article 178(Form of the arbitration agreement)
 - Article 180(1)(c) (Independence of arbitration)
 - Article 182(3) (Equal treatment requirement and right to be heard in an adversarial procedure)
5. Multi-tire arbitral cause is present under swiss international arbitration but that multi-tire arbitral cause should be present in their specific drafted language only.
6. Some of the matters that international arbitral proceedings do not take are:
 - Family law matters, such as matrimony, paternity suits, adoption, divorce etc.
 - Matter related to insolvency such as bankruptcy
 - Issuance and constitutive registration of patents, designs and trademarks.

Present condition of arbitration in Switzerland and Singapore

1. Arbitrations have become the real alternative to court proceedings in both the countries of the world.
 - Choice of decision maker with expertise
 - Speed
 - Lower cost
 - Flexible
 - Confidentiality
 - Less formal than court
 - Preservation of business relationships.

So, this are the points that say that commercial arbitration is a better choice than another.

2. Mediation is becoming important trends in arbitration processes because conflict resolution is main target of the arbitration, without proper settlement, deal could not be formalised.
3. Transparency is so important for any agreement between the parties and in today's scenario due to increase in technological set the transparency is increasing between the parties and the country so that is helping in all the expects of the fulfilment of the deal and that avoids any misrepresentation of data between the states.
4. Court reforms is one of the important progress in international arbitration that has re-established the new laws that are important on bases of latest development in all the field and that has changed the cross -border disputes well.
5. Expertise in all the subject mater are increasing that are helping in handling cross border disputes more easily with clarity of all the conflicted points as the mergers are increasing the expertise in all that field are also increasing.
6. Neutrality is one the important factors that has to be present in any arbitration laws of the country for performing a present arbitration, one thing is important to maintain the norms of both the countries so that the neutrality could be maintained.

So this all are the presents factors which are presents in both the countries and international commercial arbitration are becoming more effective by seeing the present conditions of the world here both the countries are becoming a hub for the international deals and that leads to international arbitration as the laws are changing the requirement and deals are also changing for the requirement.

Conclusion

Development is a continuous process, that requires time but it's still on-going, on the same way international arbitration is developing day by day as the companies are merging and acquiring different companies as well so this is an on-going evolving process that has shown

the tremendous result in the years, both countries are one of the best sits for international settlements and business oriented works that has become a hub for the arbitral process with help of the changes in the law and better connection in the international department of the states that helps in understanding the law easily in a transparent way which has shown the reliance's on the countries law that are helping in making flexible law that are suitable for both the states as well, international commercial arbitration is very important for any countries of the world because it describes the relation of the countries by its law, if the arbitration process is simple and clear so that will lead to more arbitral cases and that will help in the development of the arbitral law of the countries.

“We cannot imagine any society which does not embody some method of arbitration”

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