

Two Arbitrators' views of arbitration in Asia

Presented by



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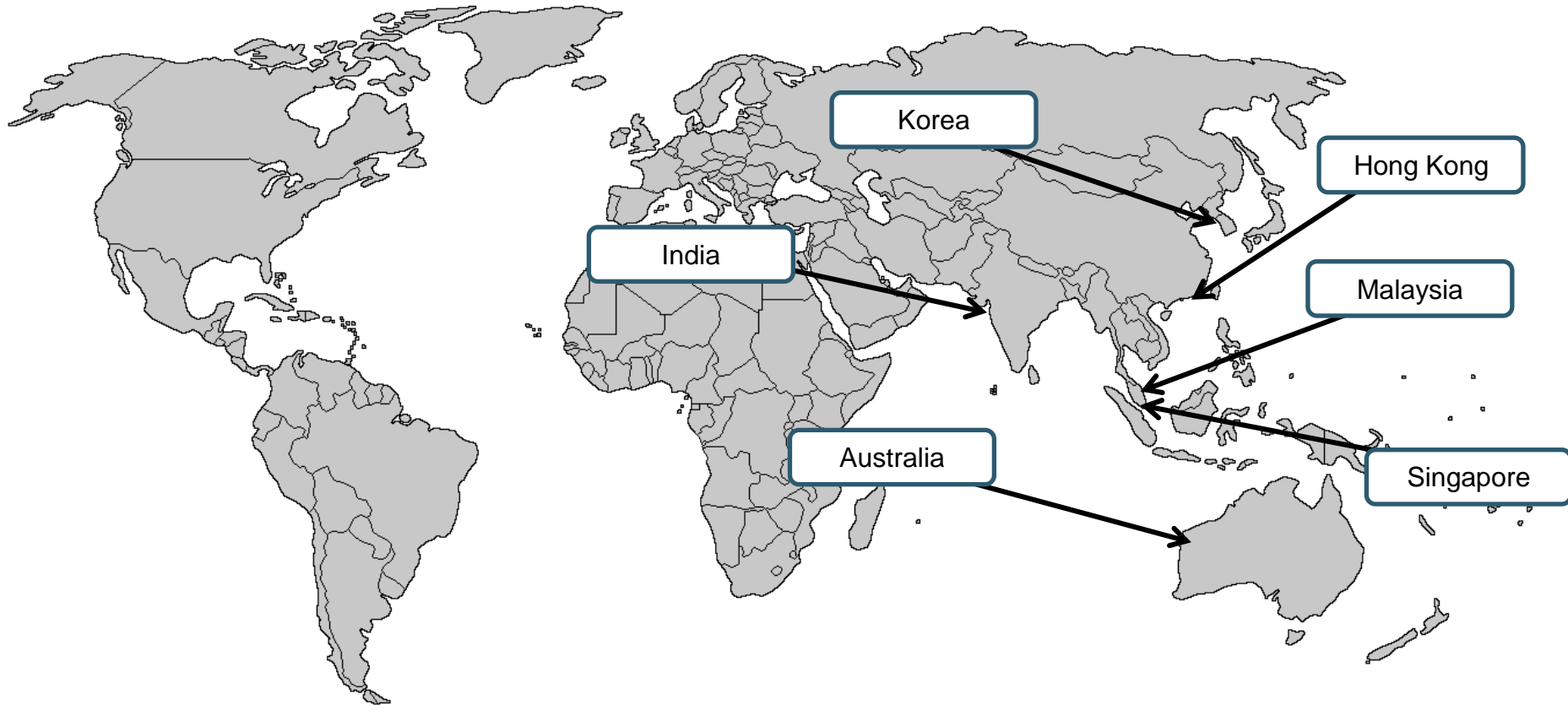
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Overview

- ▶ Massive economic activity in Asia:¹
 - » Expected real GDP growth of 5.6% in 2018 and 2019, accounting for nearly two-thirds of global growth;
 - » In 2017, GDP growth in, among others, China (6.9%); Japan (1.7%); India (7.2%); Hong Kong (3.8%); Singapore (3.6%); and Malaysia (5.9%).
- ▶ Commensurate growth in arbitration in the region
- ▶ Proliferation of arbitration centres, including:
 - » Korean Commercial Arbitration Board (KCAB);
 - » Hong Kong International Arbitration Centre (HKIAC);
 - » Asian International Arbitration Centre (AIAC);
 - » Singapore International Arbitration Centre (SIAC); and
 - » Australian Centre for International Commercial Arbitration (ACICA).
- ▶ Diversity of legal cultures

¹ IMF, Regional Economic Outlook: Asia Pacific, May 2018

Places Discussed





Korea

Korea



Arbitral Institutions

- Seoul IDRC
- KCAB International
- Light touch speedy award scrutiny



Legal Framework

- Civil law
- Strong IA bar
- Korean language courts and IA "jurisprudence"



Local Attributes

- Very strong domestic arbitration culture
- Lower costs





Hong Kong

Hong Kong



Arbitral Institutions

- HKIAC innovative and keen
- Great centre
- Very light touch speedy award scrutiny
- ICC case team



Legal Framework

- Common law
- Supportive courts



Local Attributes

- Keen to attract "sanction affected" parties
- The China factor
- The Singapore factor
- Expensive





Malaysia

Malaysia



Arbitral Institutions

- AIAC well-staffed and organised
- Regional
- Modern centre
- Light touch award scrutiny



Legal Framework

- Strong common law heritage
- Supportive courts



Local Attributes

- Keen to attract "sanction affected" parties
- Relative low cost
- Active domestic arbitration scene





MAXWELL CHAMBERS

Singapore

Singapore – a Regional Success Story



Arbitral Institutions

- SIAC busy and regionally active
- SIAC award scrutiny
- ICC case team



Legal Framework

- Common law
- Courts supportive and busy with IA with some delays (cf. London)



Local Attributes

- Maxwell Chambers
- A crowded place
- Keen to attract "sanction affected" parties
- Expensive





India

India - an Awakening Giant



Arbitral Institutions

- Centres blossoming



Legal Framework

- Modern law
- Judiciary now supportive but the busiest in the world
- Procedural delays abating



Local Attributes

- Uncertainty for outside counsel but not for arbitrators
- Indian party appointees
- Domestic arbitration very active





Australia

Australia



Arbitral Institutions

- ACICA a successful "umbrella" for IA nationally
- Sydney centre



Legal Framework

- Specialist and supportive courts
- Common law tradition but with track record of domestic procedural innovation



Local Attributes

- Lots of work
- Modern rules and national IA law
- Arbitrators and counsel welcome
- Strong IA local expertise



Conclusion

- ▶ The "elephant in the room" - China - is a subject all of its own
- ▶ Overview of where the "guns are firing" but there are other areas of putative activity
- ▶ Places of real difficulty are another subject but include Thailand, The Philippines, Indonesia and Pakistan