

How Singapore emerged as the arbitration hub for Indian firms

By [Maulik Vyas](#)

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When Daiichi Sankyo Co Ltd accused brothers Malvinder and Shivinder Mohan Singh of concealing facts during the sale of Ranbaxy Laboratories Ltd to the Japanese drugmaker, it dragged them to a court in Singapore three years ago. Last year, the Singapore International Arbitration Centre (SIAC) imposed a penalty of \$385 million on the brothers.

The case highlights a growing trend where Singapore has become the preferred destination for arbitration in disputes involving Indian companies.

According to the SIAC's 2016 annual report, 45% of the 343 cases it received involved Indian companies – either as a petitioner or as a respondent. In fact, the rise in the number of Indian companies involved in arbitration before the Singapore court has been exponential over the past decade, given that only 12 cases were recorded in 2008.

The spike in numbers gains relevance, considering that litigation on commercial disputes is not only expensive in India but also [drags on for a long time in local courts](#).

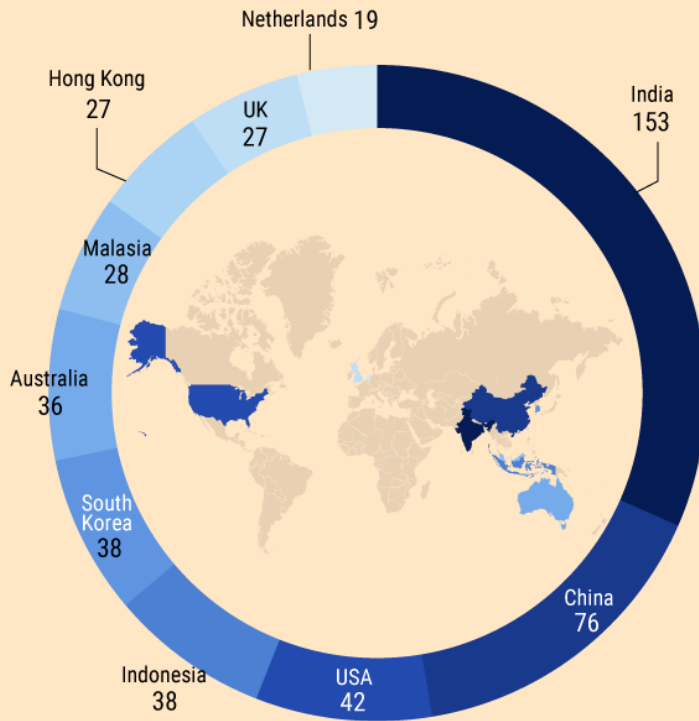
In comparison, arbitration—where disputes are settled outside the traditional court system—is cheaper and quicker.

Overall, SIAC received 343 cases from 56 jurisdictions – 27% increase from the 271 cases in 2015, and 55% rise from the 222 cases in 2014. Out of these, 307 cases, which involved \$11.85 billion, have already been administered by SIAC.

What makes Singapore a preferred centre for arbitration?

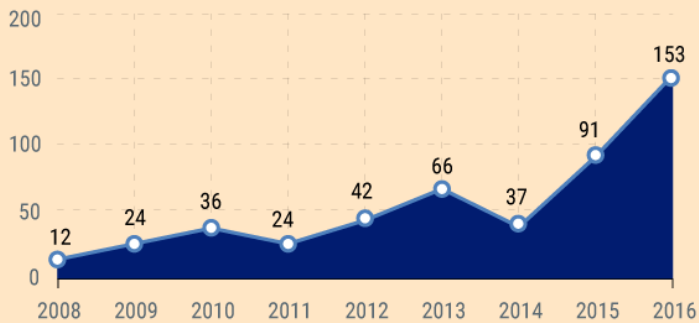
RULING THE ROOST

India has the largest slice of the pie among foreign companies involved in arbitration at the SIAC



RISE OF THE LEGION

Number of cases involving Indian companies have risen exponentially from just 12 in 2008 to 153 in 2016



For one, it is closer than London or Paris, other prominent arbitration centres in the world. A surge in trade between India and Singapore, the English language and the fact that the two countries follow common law have also contributed to the trend.

“The SIAC regularly reviews its rules, enhances the range, quality and speed of its services and offerings, and increase opportunities for arbitrators, both experienced and young,” said Singapore senior counsel Davinder Singh, who was appointed as the chairman of the SIAC board in December.

Though an arbitration court’s judgment against an Indian company can be challenged before Indian courts, fast resolution of disputes by SIAC has helped companies a great deal.

A case in point is the court battle over an [exit agreement between Tata Sons Ltd and NTT DoCoMo Inc](#) that required the Indian company to buy back shares from its Japanese joint venture partner at a predetermined price. In fact, the Delhi High Court is yet to deliver a verdict as the Reserve Bank of India is opposing a move where both parties have agreed to an out-of-court settlement following a ruling by the London Court of International Arbitration.

Similarly, Daiichi’s case against the Singh brothers is pending before the Delhi High Court after the [SIAC passed an award](#) in favour of the Japanese company.

Also, with more and more foreign investors and companies setting shop in India, companies here have felt the need to adhere to certain rules of the game to win the confidence of foreign firms.

“The government’s move on ease of doing business has helped India get fresh FDI and FII investments,” said Raj Panchmatia, partner, dispute resolution and litigation at law firm Khaitan & Co. “When you have foreign investors coming in we need to provide them with effective and robust dispute resolution mechanisms so that they have confidence of enforcing their contracts if they get into a dispute.”

Companies have also realised that Indian courts are willing to enforce such awards. “There is a change in the people’s mind set. Companies are choosing institutional arbitration clauses in their contracts rather than adhoc arbitration,” said Vyapak Desai, head of international litigation and dispute resolution practice at law firm Nishith Desai Associates.

“In the past few years we have seen many companies incorporating SIAC clauses in their contracts and, hence, we are seeing quite a few disputes where SIAC rules have been adopted and the arbitrations are being seated in Singapore,” said Panchmatia.

Interestingly, other arbitration centres, including the International Chamber of Commerce in Paris and the London Court of International Arbitration, have shown renewed interest for the Indian market in recent times.

Realising the potential of growing opportunities, India has also got its first indigenous dispute resolution centre. The Mumbai Centre for International Arbitration (MCIA) started operations in October last year. The initiative to set up the institution was taken by the

Maharashtra government, which has also notified that all state entities must have MCIA clauses in all their contracts.

“Within six months of opening the centre, we have seen over 75 hearings at our premises, despite major festivals,” said Madhukeshwar Desai, chief executive at MCIA. “The government has been the biggest litigator and, therefore, it will be a relatively shorter gestation period for the centre. Besides, we have received queries from foreign parties to have MCIA clauses drafted in their contracts. These requests are further bolstering confidence in the institution.”

Till the MCIA comes of age, Singapore may continue to see a rise in the number of arbitration cases involving India Inc.