

# Cross-Border Appeals: The BICC-SICC Model

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## Introduction

In recent years, International Commercial Courts have emerged as important forums for resolving complex cross-border commercial disputes. These courts, such as the Singapore

International Commercial Court (“**SICC**”), the Dubai International Financial Centre Courts (“**DIFCC**”), and the Qatar International Court, aim to combine the strengths of litigation and arbitration by offering a transparent, state-backed and neutral mechanism often with flexible procedures, the possibility of foreign representation and application of foreign law, and a neutral venue for international parties.

Against this backdrop of evolving transnational dispute resolution, a pioneering model of cross-border judicial cooperation has emerged: a bilateral treaty on appeals, enabling courts in one state to hear appeals from the courts of another.

In early 2024, the Governments of [Singapore](#) and the Kingdom of [Bahrain](#) entered into a bilateral [treaty](#) (“**Treaty**”) establishing the Bahrain International Commercial Court (“**BICC**”) and allowing for appeals from the BICC to be heard by a designated body of the **SICC**. In August 2024, Bahrain issued Royal Decree Law No. (9) of 2024 (“**BICC Decree**”), formally establishing the BICC, which is empowered to adjudicate a wide range of international commercial disputes and arbitration-related matters. The [decree provides that](#) judgments issued in English by the BICC may be appealed in foreign jurisdictions that are parties to relevant treaties with Bahrain, unless the parties have expressly agreed in writing to:

- Pursue an appeal before Bahrain’s domestic Appeal Authority; or to
- Treat the BICC judgments as final and not subject to appeal (except in cases where the judgment or procedures affecting it are invalid).

Subsequently, in October 2024, [Singapore](#) introduced the [SICC \(International Committee\) Bill](#), which was enacted in December 2024 as the [Singapore International Commercial Court \(International Committee\) Act 2024](#) (“**SICC IC Act**”). This act establishes an International Committee of the SICC (“**International Committee**”), which is empowered to decide appeals from foreign civil judgments, including orders on interim reliefs. Read together, the Treaty, the BICC Decree and the SICC IC Act create a framework under which the SICC’s International Committee may hear appeals from the BICC.

As the implementation of this framework unfolds, it presents an opportune moment to reflect on how such a cross-border appellate mechanism might operate in practice – the promise it holds, the hurdles it must navigate, and the broader questions it raises for the future of international dispute resolution.

## What Does This Cross-Border Appellate Mechanism Involve?

The SICC IC Act establishes an International Committee within the SICC, [empowered to](#) hear civil appeals arising from foreign jurisdictions that have entered into a bilateral arrangement with Singapore, such as decisions of the BICC under the Treaty. Importantly, under the act, the International Committee is [neither treated as](#) a Singaporean court, nor

does it exercise judicial power vested in Singaporean courts. Instead, it operates as a distinct appellate forum, constituted under the terms of the enabling bilateral treaty and the SICC IC Act.

The International Committee's [composition](#) reflects its international function. It includes permanent members drawn from the Supreme Court of Singapore and international judges of the SICC, alongside [ad hoc members](#) who may be judges from the foreign jurisdiction whose decisions are being appealed. The Singapore Minister for Law is [empowered to prescribe](#), by regulation, the categories of appeals that may be heard, as well as the powers and procedures of the International Committee. Notably, the SICC IC Act [permits the International Committee to](#) apply foreign law and allows parties to apply for the substitution of Singapore's evidential rules with those of another jurisdiction. These [regulations may further specify](#) the applicable rules of evidence, rules of private international law, and procedural powers, including the ability to stay enforcement, grant interim relief, and issue cost orders.

Decisions of the International Committee will for enforcement within Singapore be [treated as](#) judgments from the foreign court where the appeal was filed.

This mechanism seeks to preserve the legal identity of the foreign court's decision while providing a neutral appellate forum. Additionally, decisions of the International Committee are [final](#) and not subject to appeal or review by any court. The BICC [Decree provides that](#) decisions of the Appeal Authority sought to be established thereunder would not be subject to further appeal before the Bahraini Court of Cassation. Given that the Appeal Authority would operate as a parallel appellate forum to the SICC's International Committee, it is likely that decisions of the International Committee would similarly be treated as final and not subject to further challenge before Bahraini courts.

This appellate framework is likely to benefit both Singapore and its partner jurisdictions, such as Bahrain. It reinforces Singapore's role as a trusted hub for international dispute resolution, while offering partner states, such as Bahrain, a complementary appellate mechanism that enhances their perception of judicial neutrality. Beyond commercial litigation, the framework can also strengthen the broader dispute resolution ecosystem by enhancing judicial capacity to support arbitration and other dispute resolution mechanisms, for instance, through the timely disposition of interim relief applications or enforcement of arbitral awards. In doing so, the framework not only strengthens the legal infrastructure but also enhances the overall attractiveness of both jurisdictions for cross-border trade and investment.

## How is this Different from Existing Mechanisms

The concept of a cross-border appellate review is not entirely new. For instance, some former colonies still allow appeals to the Judicial Committee of the Privy Council in the

[United Kingdom](#). However, these are largely historical holdovers, grounded in constitutional provisions and domestic legislation enacted during the colonial era. In contrast, the Treaty establishes an appellate mechanism through a bilateral agreement between sovereign states, making it the first of its kind in modern transnational dispute resolution.

The Treaty mechanism also differs fundamentally from the Investor-State Dispute Settlement (“ISDS”) framework. While many investment treaties require parties to exhaust local remedies before initiating arbitration, ISDS tribunals do not sit in appeal over domestic court decisions. Rather, they assess whether the host state has breached treaty obligations, often independently re-examining disputes previously adjudicated in national courts. However, even if the ISDS mechanism is perceived as appellate due to a tribunal’s power to re-examine merits decided by local courts, this is different from the Treaty. In this context, any ‘appellate’ authority would belong to arbitral tribunals, not foreign courts. Hence, no inter-court appellate relationship would be created. Lastly, the scope of disputes subject to appeal under the Treaty is likely broader than those typically addressed in ISDS, as the BICC, and any appeals therefrom, are not confined to investment claims.

Furthermore, the Treaty does not mirror the European Union’s (“EU”) supranational model, where the Court of Justice of the European Union exercises appellate authority across member states within a shared legal order. In contrast, the Treaty preserves national judicial independence and creates a consent-based appellate link between sovereign states, without requiring political or institutional integration.

Lastly, the Treaty mechanism preserves party autonomy by allowing litigants to opt out of the cross-border appellate process – an option not available under Privy Council appeals or supranational systems, such as the EU. This underscores the bilateral, consent-based nature of the framework, distinguishing it as a more flexible model of cross-border judicial cooperation.

## What Challenges Could This Mechanism Face?

The novelty of the cross-border appellate mechanism established under the Treaty, the BICC Decree and the SICC IC Act gives rise to several unique concerns.

*First*, while the SICC IC Act permits the International Committee to apply foreign law when deciding appeals (SICC IC Act, Sec. 6(f)), it does not mandate its application. This may create uncertainty over the applicable law and, in turn, reduce the predictability of outcomes. The discretionary language may have been included to accommodate the approach under the BICC Decree, which allows parties to [agree on the governing law](#) of their disputes or, in the absence of such agreement, empowers a dispute resolution panel to determine the applicable law. However, it remains unclear whether the International Committee would be bound by the BICC or the dispute resolution panel’s determination of applicable law in cases where that determination forms part of the subject matter of the appeal.

*Second*, the enforceability of the International Committee's decisions outside Singapore and Bahrain remains uncertain. Although the SICC IC Act provides that such decisions are to be treated as those of the originating foreign court for enforcement within Singapore, it remains unclear whether, and on what basis, courts in other countries will recognise or enforce these decisions. Given the unique and hybrid nature of the International Committee, courts in other jurisdictions may face difficulty determining whether the International Committee's decisions should be treated as originating from Singapore, from Bahrain, or as *sui generis* rulings arising from a treaty-based mechanism without a clear jurisdictional anchor, thereby impacting the enforceability of these judgments in their jurisdictions.

## **Conclusion: Does this New Transnational Appellate Mechanism Signal the Future of Cross-Border Judicial Co-Operation?**

The appellate mechanism established under the Treaty and the SICC IC Act marks a bold experiment in transnational dispute resolution. By enabling a court in one jurisdiction to hear appeals from another's commercial court, the model promises faster and more neutral outcomes for international litigants, while bolstering the credibility of both jurisdictions involved. Despite this promise, the path to its widespread adoption remains uncertain, with concerns lingering around the uncertainty of applicable law and the enforceability of appellate decisions in third countries.

More significantly, the model may face resistance from jurisdictions concerned about judicial sovereignty. Allowing a foreign body – particularly one whose decisions are final and immune from further appeal – to sit in review over domestic court rulings may be viewed as a dilution of sovereign authority. These concerns echo the early apprehensions many states had toward international arbitration before they ultimately accepted it as a limited exception to judicial jurisdiction, provided it was bounded by public interest safeguards.

A similar balance may need to be negotiated for cross-border appellate frameworks to gain popularity. That balance can be shaped through a combination of domestic regulations governing international commercial courts, carefully negotiated bilateral treaties, and implementing rules under legislations such as the SICC IC Act. These instruments can define the scope of disputes subject to international commercial courts and cross-border appellate review, the applicable procedural standards, and incorporate safeguards to preserve core national legal principles. For example, public interest safeguards could be deemed mandatory rules of law that a foreign appellate forum must respect. This could be enforced through a conflict-of-laws provision in the enabling treaty or statute governing the appellate forum, which would require deference to the mandatory laws of the jurisdiction from which the appeal originates.

Whether this mechanism evolves into a durable fixture of global legal architecture will depend not only on its design, but on the willingness of states to reimagine sovereignty in an interconnected world.

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## ABOUT THE AUTHORS

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