

New Singapore Chamber of Maritime Arbitration

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SCMA Formation

- Singapore Maritime Foundation decided that a Maritime Arbitration Centre be established as part of Singapore's International Maritime Centre.
- SCMA launched Nov 2004 as part of SIAC as at time thought advantage that all arbitration activities be within one umbrella.

SCMA within SIAC

- Working Group report Nov 2007:
 - SCMA subject to SIAC procedures (administered arbitration model as per ICC) alien to maritime community used to LMAA process (party autonomy model of arbitration);
 - SCMA subject to mandatory scale of arbitrators' fees and use of designated panel of arbitrators, again alien to maritime community;
 - adopt and improve on lighter LMAA approach;
 - create maritime industry ownership of process.

SCMA outside SIAC

- ProTem Committee under SIAC chair Justice Goh Joon Seng recommended that SCMA be transferred out of SIAC and new SCMA Rules be drafted.
- SIAC agreed to transfer out of SCMA after considering that a dual system within SIAC would not be favoured by maritime industry.

Establishment of SCMA

- SCMA re-organised May 2009 outside SIAC as separate company limited by guarantee.
- Future development of SCMA influenced by Committees comprising Members elected by the membership.

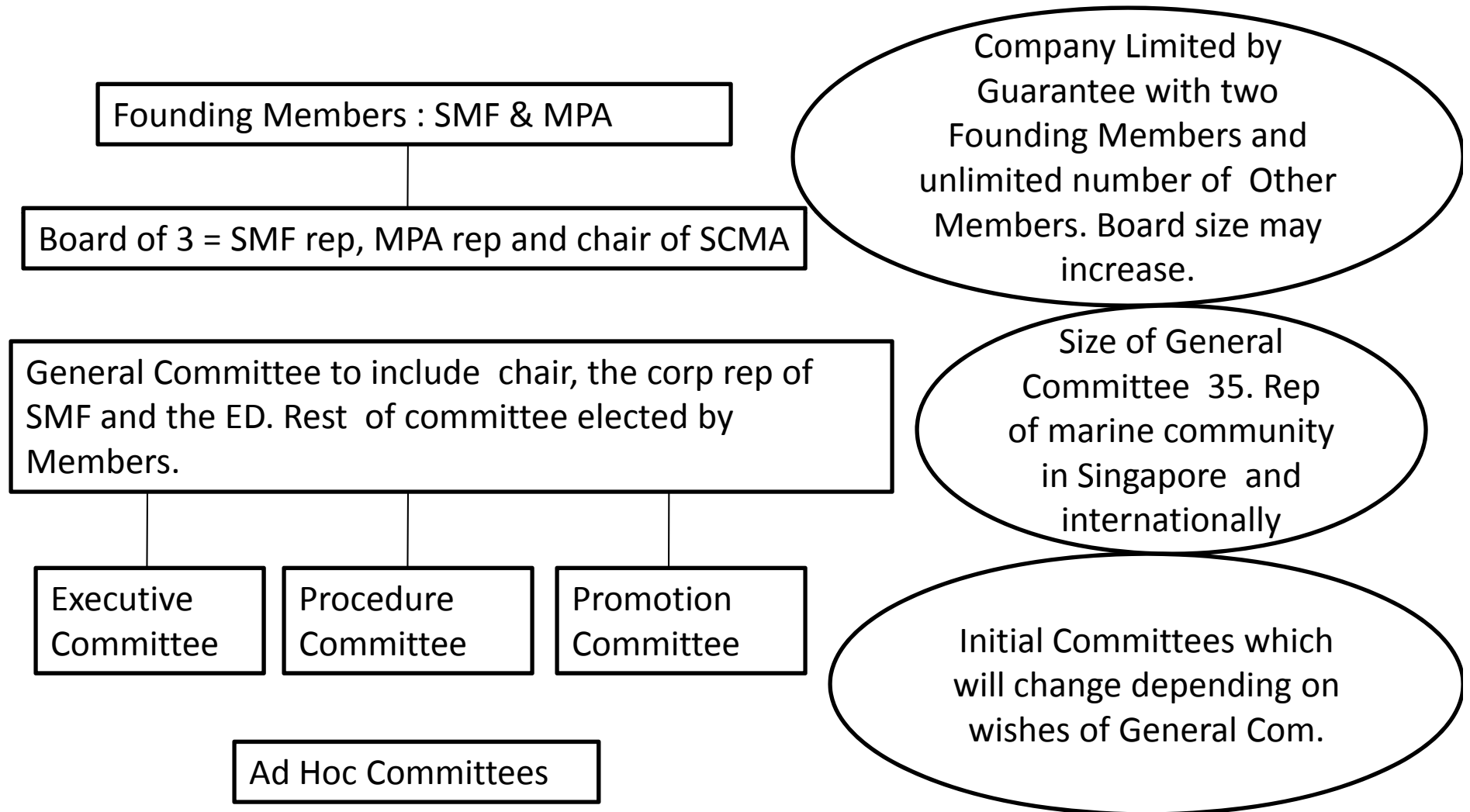
Main Objects of SCMA

- To advance and encourage maritime arbitration in Singapore.
- To facilitate the expeditious procedure and disposal of maritime disputes through arbitration.
- To advance the professional knowledge of maritime arbitrators.

Membership

- Corporate and Individual memberships
 - From the Singapore and International maritime community
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- Arbitrators
 - Lawyers
 - Shipowners
 - Ship managers
 - Ship charterers
 - Ship agents
 - Bunker suppliers
 - Ship yards
 - Cargo owners
 - Ship Brokers
 - P&I Clubs
 - Hull & Cargo insurers
 - Insurance brokers
 - Banks
 - Academics

New SCMA Structure



General Committee

2 Arbitrator – Singapore

2 Arbitrator – U.K.

1 Law Firm – China

1 Law Firm – Indonesia

1 Law Firm – Malaysia

5 Law Firm – Singapore

3 Law Firm – Singapore / U.K.

1 Defence Insurer – Singapore /Norway

1 P&I Club – International

1 Cargo Owner – India

1 Cargo Owner /Ship Owner – International

2 Cargo Owner /Charterer – International

1 Defence Insurer – Singapore /Norway

1 Ship Broker – Singapore

1 Ship Owner – Singapore

1 Ship Owner /Ship Operator – Singapore

1 Shipyard – Singapore

1 Association Tanker Owners – UK /Norway

General Committee

- General Committee currently 30, can go to 35
- Geographical representation to be added:
 - China
 - India
 - Korea
 - Japan
 - Vietnam

Development of New SCMA

- SMF provides seed funding to establish SCMA.
- In time SCMA should be self funding.
- The Maritime Community is the stakeholder in SCMA.



www.scma.org.sg

Rule Changes – A Lighter Touch

- New SCMA provides a framework and has minimum involvement in the process of arbitration.
- New SCMA does not charge a management fee.
- New SCMA does not have a mandatory panel of arbitrators.
- New SCMA does not have a schedule of required fees for arbitration.

New SCMA is notified of arbitration but does not monitor process

- Arbitration commenced by Claimant notifying Respondent.
- No filing of case documents with SCMA, documents submitted direct to parties and Tribunal.
- Tribunal to notify SCMA of brief nature of dispute without disclosing names of parties.
- SCMA does not manage process, but able to facilitate if requested to do so and it is appropriate.
- Tribunal issues Awards and submits a copy of Award to SCMA.

Commencement of Arbitration – service on other party (Rule 4)

- Request that dispute be referred to arbitration;
- Identity of parties to dispute;
- Reference to arbitration clause;
- Reference to contract relating to dispute;
- Proposed number of arbitrators if none agreed;
- Name of claimants proposed arbitrator;

Also may provide

- Brief description of dispute; relief or remedy sought.

Parties have more control and wider choice of appointment of arbitrators

- Tribunal can be of any number agreed by the parties.
- Default number is 3.
- Panel of SCMA arbitrators with clear CVs.
- Freedom of choice of arbitrator – does not need to be from panel.
- If 3 arbitrators, each party appoints own arbitrator and the two arbitrators agree on an appointment of third.
- Parties to agree appointment of a sole arbitrator.
- If no agreement on an arbitrator, SCMA Chairman to appoint.

Removal of an arbitrator once appointed

- Party can challenge another Party's appointment by application to the Chairman SCMA with no right of appeal except judicial review. Grounds:
 - Lack of impartiality
 - Lack of qualifications required by agreement of parties
- Removal of appointed arbitrator by Court.

Minimum Criteria needed for admission to SCMA Panel of Arbitrators

- 10 years experience in shipping industry.
- Knowledge of law relating to maritime matters, arbitration practice and procedure (can be law of any country as declared by person).
- Demonstrates ability to draft reasoned awards in maritime disputes
 - by submitting at least two reasoned awards, or
 - evidencing fellowship of a recognised arbitration institution, or
 - successfully completing an award writing course conducted by recognised arbitration institution.

Arbitrators can come from any country.

Practical Experience

- Panel of 3 allows opportunity to gain more experience.
- Pupillage system for aspiring arbitrators.

Place & Law of Arbitration

- Substantive Law of Dispute – parties choice.
- Physical Place of Arbitration is Singapore unless the parties agree another place.
- Juridical Seat of Arbitration is Singapore unless the parties agree otherwise.
- If Singapore Juridical Seat then International Arbitration Act of Singapore to apply.

No SCMA management Costs

No mandatory scale of arbitrators' Costs

- An appointment fee to arbitrator of USD250 / SGD375.
- No management fees to SCMA.
- No scale of fees for arbitrator.
- However arbitrator must be transparent as to:
 - Hourly fees
 - Number of hours worked
 - Purpose of work

Fixed Arbitration Fees

To Arbitrator

- Appointment Fee: USD250 / SGD375
 - (LMAA UKP 150)
- Booking Fee for Tribunal: USD750 / SGD1,125 per day
 - (LMAA UKP 500 per day)

To SCMA

- Certifying of Documents: USD100 / SGD150
 - (LMAA UKP 100)
- SCMA chairman appointing arbitrator in default of parties appointing: USD500 / SGD750
 - (LMAA UKP 250)

Other SCMA Procedures

- Small Claims Procedure for claims not exceeding USD75,000
 - Cap on Arbitrator's Fees
 - USD3,000 or, if there is a counterclaim, USD5,000 in total per arbitrator (normally sole arbitrator)
 - Cap on recoverable Lawyers' Costs
 - USD4,000 or, if there is a counterclaim, USD5,000 in total each party's lawyers
- Code of Practice for Bunkering

Facilities in Singapore

- Arbitrations can take place anywhere.
- SCMA can arrange for hearings to take place in Maxwell Chambers:
 - 14 custom-designed hearing rooms
 - 12 preparation rooms
 - Translation services
 - Audio recording
 - Video conferencing
- www.maxwell-chambers.com

Need for maritime arbitration in Asia

- Asia interests control large percentage of global tonnage and cargo.
- More convenient for time zone and distance.
- Asian influence over development of arbitration

Singapore as venue for arbitration

- Cosmopolitan
- English spoken
- Legal tradition
- Access to lawyers, experts etc
 - No work permit needed or withholding tax for visiting foreign arbitrators
- Safe, stable, good connectivity
- Large number of maritime companies have a presence
- International maritime centre

Publication of Awards

- SCMA entitled to publish a summary of the Award if a Party does not object.
- Names of parties not disclosed in publication.
- Important as educational process.
- Important to show the quality of arbitrations taking place in Singapore.

Arbitration Clause

- See website www.scma.org.sg for standard recommended clause.
- Clause for use with BIMCO documents
- SCMA can be used where the clause refers to “Singapore arbitration”
- SCMA can be used where parties agree despite clause stating another arbitration process.