LETTER

Assessment of Singapore arbitration an 'unbecoming put-down'

Re: "Singapore far from a threat to London on arbitration front"
(Letter to Editor from Nicholas Woo, TradeWinds 4 October, page 14)

To the Editor,

I do not want to cause a row, but as a person with loyalty to each relevant association, I am moved to write because I was dismayed by what gave the impression of being a rather condescending and unbecoming put-down of another arbitration association by a supporter and user of London Maritime Arbitration.

As still a British citizen and, to boot, for quite some time a supporting member of the LMAA [London Maritime Arbitrators Association], an arbitrator appointed under LMAA terms, and also an SCMA [Singapore Chamber of Maritime Arbitration] panel arbitrator appointed under its rules, who is now resident and practising foreign law in the country from which your former Singaporean citizen correspondent has departed, I would respectfully caution my fellow supporters of London Maritime Arbitration against adopting any of the complacency he exhibits (founded on comparative statistics to date — which nobody would challenge — and characteristics which are, in fact, present in both locations he compares).

I would remind them that it is from little acorns that great oaks do grow — even though slowly at first.

Your correspondent's unfortunate failure to use the correct acronym (it is, for your enlightenment, SCMA, not SMAC!) does not help with his implied pretension of a considered assessment of the future prospects for maritime arbitration taking place in Singapore under the chamber's auspices.

His point that there is an increasing irrelevance in location of the arbitration (compared to juridical seat) applies to each seat and location of hearing under consideration.

What is disappointing is that he fails to consider worthwhile points of debate and comparison for the future, such as whether the pure Model Law approach that Singapore currently favours and offers, through its overseeing statutory regime for international arbitration and its disallowance of judicial intervention by way of appeal, might come to hold sway with parties, where there is an ever-increasing confidence in the minds of disputant parties and their representatives in the pool of arbitrators willing and able to arbitrate in Singapore.

At a recent SCMA conference in Singapore, a substantial audience, including stakeholders from all perspectives, was just about equally divided on the competing merits of the different approaches.

Singapore and its arbitral infrastructure, both ad hoc and institutional, is every bit as open as London to arbitrators of the necessary competence and quality from wherever they might emanate. Every point urged in praise of London arbitration applies equally to Singapore arbitration. Choice of nationality of arbitrators, choice of location of hearing where necessary, requirements of LMAA membership (or of most other reputable arbitration associations or institutions) and disposal on paper, can all be accommodated in Singapore.

There is also a growing sense that arbitrators from the region and those who commit to arbitrating in the region are becoming more sensitive to the nuances of interpretation of conduct and reaction, borne of cultural differences, and thus are becoming better equipped to deliver a fair and just award where Asian parties, witnesses and modes of doing business are involved. This is a real issue and it is too important to be avoided and not grappled with on grounds of being too politically hot to handle.

As for comparative expense in arbitrations, users' complaints about the increasing cost of arbitration are universal, and it is up to arbitration associations and institutions and the arbitrators who man the tribunals in all jurisdictions to do something about it. The English Arbitration Act of 1996 (section 65) enables cost-capping by arbitrators unless the parties otherwise agree. The questionnaire in Schedule 3 to the LMAA Terms at item 15 prompts consideration of use of the statutory power. Sadly, hen's teeth come to mind in contemplation of the incidence of the use of this power in significant arbitrations.

I hope, therefore, that most of my fellow supporters of both associations — old and young — will be unimpressed by what smacks (surprisingly considering its source) of an unnecessarily defensive parochial offering; and instead of luxuriating in satisfaction that London still holds the upper hand by far numerically, exert their energies in striving together to promote fair, effective and economical arbitration worldwide, wherever most convenient, and comfortable for those we (hopefully) worldwide arbitrators ought to be serving to the best of our ability — the disputant parties.

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▸ **ANDREW G MORAN QC:** Writes in reply to a recent letter from Nicholas Woo, who claimed that Singapore has some way to go before challenging London as the leading arbitration centre. **Photo:** STONE CHAMBERS