NAVIGATING INDONESIA-RELATED MARITIME DISPUTES THROUGH SCMA

Background

Indonesia is an archipelagic country with a long history of maritime trade. Spanning across more than 17,000 islands and straddling the world's most strategically vital shipping lanes – the Strait of Malacca, the Lombok Strait, and the Sunda Strait – the Indonesian archipelago has served as a crossroad of global maritime commerce since the age of the spice trade.

The scale of Indonesia's maritime commerce is, by any measure, formidable. Indonesia generates an immense volume of shipping transactions annually: charter parties, bills of lading, ship sale and purchase agreements, and commodity contracts that span jurisdictions, currencies, and legal traditions. Where commerce flows on such a scale, disputes are inevitable. The question of which forum governs that resolution is not merely procedural; it is profoundly commercial, determining how swiftly justice is rendered and, crucially, whether any award obtained can be enforced against the assets of the obligor.

SCMA and Maritime Disputes

It is against this backdrop that international arbitration has emerged as the preferred mechanism for resolving cross-border maritime disputes involving Indonesian parties. Arbitration offers what litigation in foreign courts cannot: neutrality, confidentiality, finality, and a near-universal framework for the recognition and enforcement of awards across more than 170 jurisdictions through the 1958 New York Convention. Singapore, in particular, has positioned itself as the preeminent arbitral centre for maritime disputes in the Asia-Pacific region. Its geographic proximity to Indonesia, its status as the world's second-busiest port, the concentration of international shipping companies and maritime legal practitioners within its borders, and its robust institutional and judicial infrastructure collectively make it the natural seat for disputes with an Indonesian dimension.

Within this landscape, the Singapore Chamber of Maritime Arbitration ("**SCMA**") occupies a distinctive and increasingly vital role. As a specialist institution purpose-built for the maritime and international trade community, SCMA offers a flexible, cost-effective, and industry-tailored framework, which may become one of the most popular forums of choice for resolving disputes.

SCMA Arbitration Agreement

Arbitration is fundamentally consensual in nature. Article 2 of the Law No. 30 of 1999 regarding Arbitration and Alternative Dispute Resolution ("**Indonesian Arbitration Law**"), **disputes may be referred to arbitration only where the parties have expressly agreed to do so**.

Article 2 of the Indonesian Arbitration Law:

> "This Law governs the settlement of disputes or differences of opinion between parties to a specific legal relationship **who have entered into an arbitration agreement** expressly stipulating that all disputes or differences arising, or that may arise, from such legal relationship shall be resolved by arbitration or through alternative dispute resolution."

Similarly, SCMA arbitration may proceed only pursuant to an arbitration agreement or clause incorporated into the parties' contract.

Rule 6.1 of the SCMA 4th Edition Rules ("SCMA Rules"):

> "Any party referring a dispute to arbitration under these Rules (the "Claimant") shall commence arbitration by serving on the other party (the "Respondent") a written Notice of Arbitration (the "Notice of Arbitration"). The Notice of Arbitration shall include: …
>
> c. a reference to the arbitration clause or any separate arbitration agreement that is invoked, or alternatively, a copy of such clause or agreement; …"

Furthermore, SCMA has provided a model arbitration clause for parties wishing to refer disputes to SCMA.

SCMA Arbitration Clause:

> “Any and all disputes arising out of or in connection with this contract, including any question regarding its existence, validity or termination, shall be referred to and finally resolved by arbitration seated in Singapore in accordance with the Arbitration Rules of the Singapore Chamber of Maritime Arbitration (“SCMA Rules”) current at the commencement of the arbitration, which rules are deemed to be incorporated by reference in this clause.”

Applicable Law and Seat of Arbitration

The parties have the **freedom to choose their preferred law** to be applied before the SCMA tribunal, including Indonesian law.

Rule 31.1 of the SCMA Rules:

> “The Tribunal shall apply **the law designated by the parties as applicable to the substance of the dispute**. Failing such designation by the parties, the Tribunal shall apply the law which it considers applicable.”

With respect to the seat of the arbitration, although SCMA is by default seated in Singapore, **it remains possible for the arbitration to be conducted in Indonesia**.

Rule 32.1 of the SCMA Rules:

> “The seat of arbitration shall be Singapore unless otherwise agreed by the parties. Where the seat of the arbitration is Singapore, the International Arbitration Act (Chapter 143A) shall apply unless otherwise agreed by the parties.”

Awards

Under the SCMA Rules, **the seat of arbitration influences the legal character of the award**, which in turn has a substantial impact on its enforceability.

Rule 32.2 of the SCMA Rules:

> An Award made under these Rules shall be deemed to be made in the seat of arbitration.

The seat of arbitration significantly affects the classification of an award under Indonesian law, determining whether the award is deemed an international award or not. Article 1 paragraph 9 of the Indonesian Arbitration Law, as amended by Constitutional Court Decision No. 100/PUU-XXII/2024, defines an international arbitral award as follows:

Article 1 paragraph 9 of the Indonesian Arbitration Law (as amended):

> An International Arbitral Award is a decision **rendered by an arbitral institution or an individual arbitrator outside the jurisdiction of the Republic of Indonesia**, or an award of an arbitral institution or individual arbitrator which, under the laws of the Republic of Indonesia, is deemed to constitute an international arbitral award.

Therefore, if the parties to the dispute select Indonesia as the seat of arbitration and the proceedings are conducted in accordance with Indonesian law, the award may not be regarded as an international award, but rather a domestic award. Conversely, if the arbitration is conducted in Singapore or any other jurisdiction, the arbitral award would be deemed an international arbitration award in Indonesia, as defined under the Indonesian Arbitration Law. **Such an international award is not directly enforceable or executable in Indonesia; a two-step procedure must be undertaken by the prevailing party, consisting of registration and an application for an exequatur**. The award must be registered exclusively with the Central Jakarta District Court ("**CDCJ**"), as provided under Article 65 of the Indonesian Arbitration Law.

Article 65 of the Indonesian Arbitration Law:

> The authority competent to address matters concerning the recognition and enforcement of International Arbitral Awards is the Central Jakarta District Court.

Furthermore, once the arbitral award has been registered, the award creditor must submit a petition to the CDCJ for an exequatur. At this stage, the court's role is confined to a formal and legal review, without revisiting the merits of the dispute. In conducting this review, the Chairman must ensure that the award is grounded in commercial law, remains consistent with Indonesian public policy (ketertiban umum), and satisfies the requirement of reciprocity.

Conclusion

Currently, maritime commerce increasingly transcends national boundaries, making efficient and enforceable dispute resolution indispensable. SCMA offers parties involved in Indonesia-related maritime transactions a specialised arbitral framework supported by Singapore's sophisticated arbitration ecosystem and the international enforceability regime. For both Indonesian and foreign commercial actors, understanding the interaction between SCMA arbitration and Indonesian enforcement procedures is essential to managing cross-border maritime risk.

Contact

This article is intended for informational purposes and does not constitute legal advice. Should you require any legal advice, please do not hesitate to contact us.

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