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Press Release

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Principles for recognition and enforcement of foreign judgments in Asia

Singapore, 3 September 2020 – A new study by the Asian Business Law Institute (ABLI) has identified 13 overarching principles adopted by Asian countries¹ in their approach to recognise and enforce foreign judgments of a commercial nature.

These principles—which range from the finality of the judgment to the reciprocal enforcement of judgments from the opposing jurisdiction—are published in ABLI’s title, *Asian Principles for the Recognition and Enforcement of Foreign Judgments*.

The title is the latest initiative under ABLI’s project to harmonise the rules governing recognition and enforcement of foreign judgements in Asia. An earlier publication, *Recognition and Enforcement of Foreign Judgments in Asia*, outlines the current state of law in the same set of countries.

Associate Professor Adeline Chong of the School of Law, Singapore Management University, led the project that has identified these core principles that are adopted across the board. “Of course, there may be variations in how a particular principle may be interpreted, but by and large, the results of the analysis are encouraging for reforming and harmonisation efforts. There are also promising signs of a movement towards convergence in relation to principles which are not currently adopted across the board,” said Assoc. Prof Chong, who was assisted by six legal academics and practitioners from the region in this study.

The title is available from 3 September 2020 in ebook form at <https://info.sal.org.sg/abli/ebooks/recognition-enforcement-foreign-judgments/>.

¹ The 10 member states of the Association of South East Asian Nations, as well as Australia, China, India, Japan and South Korea.



Appendix

Asian Principles for the Recognition and Enforcement of Foreign Judgments

Principle 1

As a general proposition and subject to these Principles, a foreign judgment in a commercial matter is entitled to recognition and enforcement.

Principle 2

A foreign judgment is eligible for recognition and enforcement if the court of origin has international jurisdiction to render that judgment.

The typical grounds on which a court is considered to have international jurisdiction include:

- (a) where the judgment debtor was present, resident or domiciled in the country of the court of origin;
- (b) where the judgment debtor, being a corporation, had its principal place of business in the country of the court of origin;
- (c) where the judgment debtor submitted to the jurisdiction of the court of origin by invoking its jurisdiction or by arguing the merits of the case against it; and
- (d) where the judgment debtor submitted to the jurisdiction of the court of origin by way of a choice of court agreement for the court of origin.

Principle 3

A foreign judgment is eligible for recognition and enforcement if it is final.

Principle 4

The court addressed must not review the merits of a foreign judgment, except to the extent necessary for the application of these Principles.

A foreign judgment may not normally be challenged on the ground that it contains an error of fact or law, or both.

Principle 5

A foreign judgment is eligible for recognition and enforcement if there is reciprocity between the country of the court addressed and the country of the court of origin.

Principle 6

Monetary judgments that are not for a sum payable in respect of a foreign penal, revenue or other public law are enforceable.

Principle 7

Non-monetary judgments that are not preliminary or provisional in nature may be enforced.

Principle 8

Recognition and enforcement of a foreign judgment may be refused if the judgment was obtained by fraud.



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Principle 9

Recognition and enforcement of a foreign judgment may be refused if to do so would be manifestly incompatible with the public policy of the country of the court addressed.

Principle 10

Recognition and enforcement of a foreign judgment may be refused if there was a lack of due process in the proceedings before the court of origin.

Principle 11

Recognition and enforcement of a foreign judgment may be refused if it is inconsistent with a judgment in a dispute between the same parties that is given by the court addressed.

Recognition and enforcement of a foreign judgment may be refused if it is inconsistent with an earlier judgment given by a court of another country between the same parties and on the same subject matter, provided the earlier judgment fulfils the requirements for recognition.

Recognition and enforcement of a foreign judgment may be refused on the ground that proceedings between the same parties and on the same subject matter are pending before the court addressed if the court addressed was seized of the matter before the court of origin.

Principle 12

A foreign judgment that has as its object a right *in rem* in immovable or movable property is eligible for recognition and enforcement.

Principle 13

A foreign judgment that is objectionable in part may be severed and the unobjectionable part recognised and enforced.



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About the Asian Business Law Institute

Launched in January 2016, the Asian Business Law Institute (ABLI), a subsidiary of the Singapore Academy of Law, is a permanent institute based in Singapore that initiates, conducts and facilitates research with a view to providing practical guidance in the field of Asian legal development and promoting the convergence of Asian business laws. Its mission is to remove unnecessary or undesirable differences between Asian legal systems that pose obstacles to free and seamless trade. ABLI's long-term strategic direction in accordance with its aims is set by its Board of Governors chaired by The Honourable the Chief Justice Sundaresh Menon of the Supreme Court of Singapore. The Board comprises representatives from Australia, China, India and Singapore and other internationally renowned legal experts.

More information can be found at <https://abli.asia/>.