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Why Singapore is a good place to settle your disputes

SIAC / OAV Webinar „Managing Cross-Border Disputes:
The Advantages of SIAC Arbitration“

Dr. Claus Trenner
Hamburg, 13 October 2020

Luther in Asia



Our work gives us a good overview about the legal environment in Asian Countries.

- 420 Lawyers and tax advisors worldwide
- 10 Offices in Germany
- 10 International Offices
- 7 Offices in Asia: Singapore, Kuala Lumpur, Bangkok, Jakarta, Yangon, Dehli-Gurugram, and Shanghai
 - > 20 Years of experience in Asia
 - > 50 International and local lawyers
 - > 150 CorpSec, Accounting and Tax Executives



Asian culture of dispute :



- is the mirror image of Asian negotiation culture
- open conflict must be avoided
- the meaning of the "face"
- the meaning of "no"
 - "No" is loss of face for the other side
 - Linguistic synonyms:
 - "this is an interesting thought"
 - "we will consider this in due course".
 - Simply ignoring the point and shifting the conversation to another topic
 - Silence is even less approval than in Germany

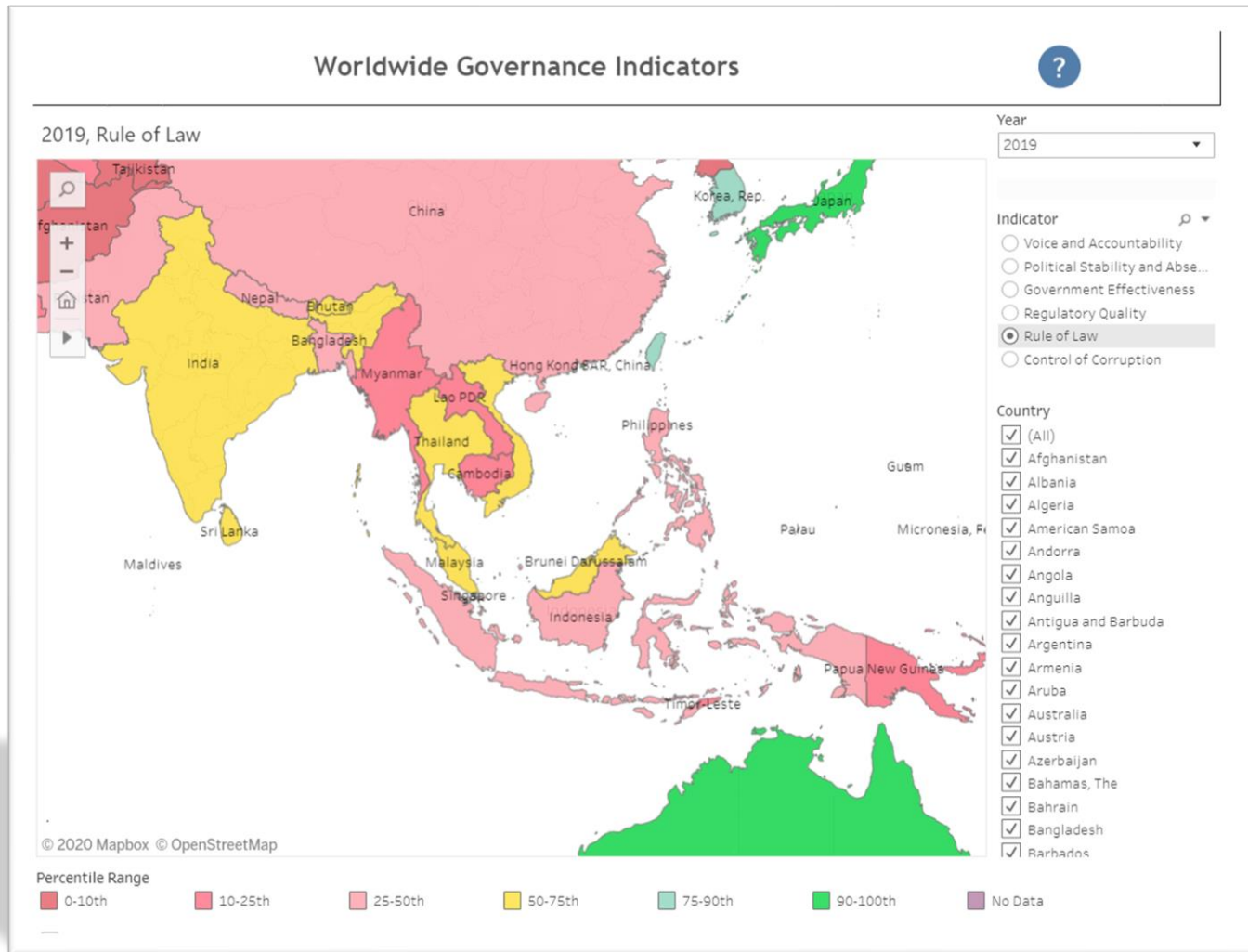
What does this mean for dispute resolution?



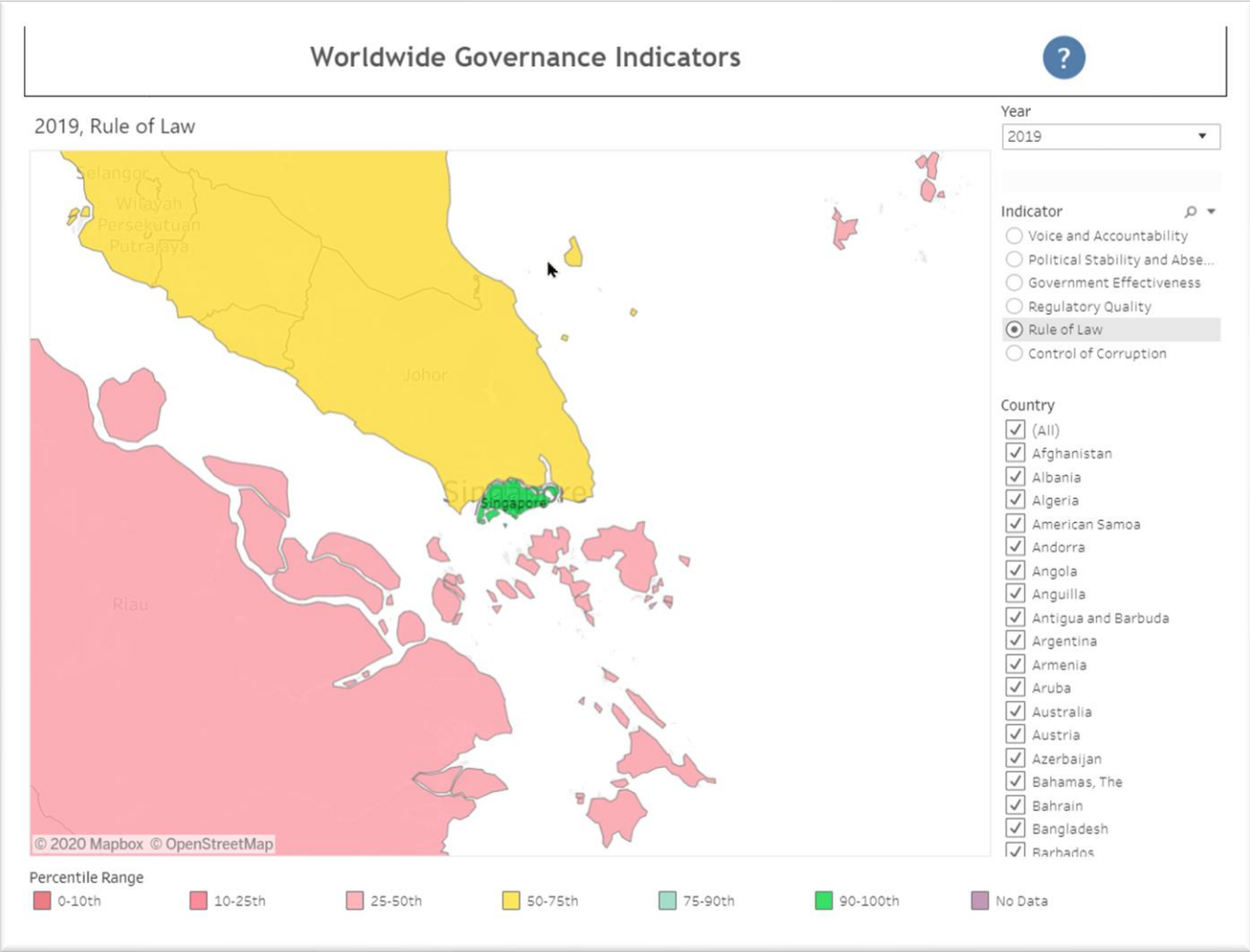
- Preference for rapid resolution of top-level differences
 - "A contract is only the starting point for further negotiations"

- Multi-stage arbitration clauses with preliminary stages of dispute resolution on a commercial level (consultation clauses) and mediative elements (mediation clauses) are useful and increasingly common
 - Problem 1: Speed
 - Problem 2: Clarity

The „rule of law“ in Asia is (nearly everywhere) not what Europeans might expect



Except in Singapore



Enforcing claims can be very slow

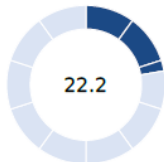
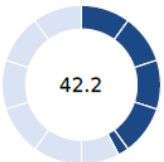
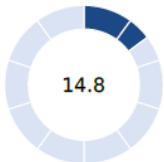
Enforcing Contracts - Myanmar

Standardized Case

Claim value	MMK 6,995,992
Court name	Latha Township Court
City Covered	Yangon

Indicator	Myanmar	East Asia & Pacific	OECD high income	Best Regulatory Performance
Time (days)	1160	581.1	589.6	120 (Singapore)
Cost (% of claim value)	51.5	47.2	21.5	0.1 (Bhutan)
Quality of judicial processes index (0-18)	4.0	8.1	11.7	None in 2018/19

Figure - Enforcing Contracts in Myanmar - Score



Source: Worldbank, Doing Business in Myanmar 2020.

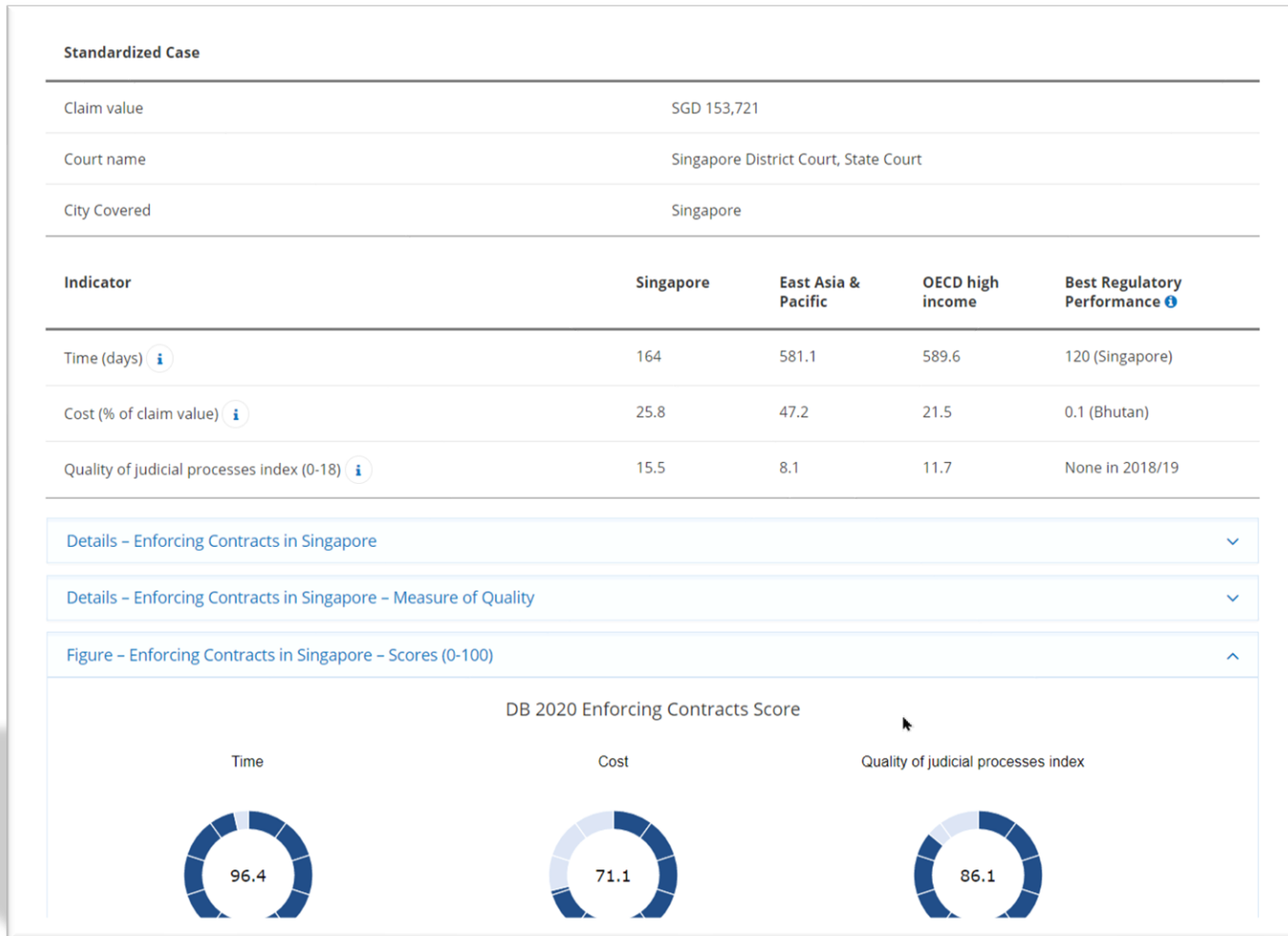
And the standards and legal systems vary

Figure - Enforcing Contracts in Myanmar and comparator economies - Ranking and Score



Note: The ranking of economies on the ease of enforcing contracts is determined by sorting their scores for enforcing contracts. These scores are the simple average of the scores for each of the component indicators.

Singapore is on top, however



Thank you

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Q&A

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