Clauses de droit applicable et de règlement des litiges pour les contrats entre la Suisse et Singapour

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Les contrats entre parties suisses et singapouriennes ont besoin d'un droit applicable que les deux juridictions respecteront et d'un for capable d'accorder des mesures contre des actifs dans les deux places. La Suisse et Singapour sont toutes deux parties à la Convention de New York, ce qui fait de l'arbitrage la voie la plus sûre pour l'exécution. Toutes deux disposent d'institutions d'arbitrage expérimentées dans les litiges relatifs aux actifs numériques.[1] La voie judiciaire est plus simple pour les litiges de faible valeur. Un jugement suisse n'est toutefois exécuté à Singapour qu'en vertu de la common law (le Reciprocal Enforcement of Foreign Judgments Act ne s'étend pas à la Suisse), et un jugement singapourien est exécuté en Suisse selon les art. 25 ss LDIP, qui exigent la compétence indirecte et l'absence d'objection tirée de l'ordre public. La Convention de La Haye sur les accords d'élection de for lie Singapour, mais la Suisse l'a signée sans la ratifier.

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Governing law (Swiss). This Agreement and any non-contractual obligations arising out of or in connection with it are governed by the substantive laws of Switzerland, excluding its conflict-of-laws rules and the United Nations Convention on Contracts for the International Sale of Goods.

Governing law (Singapore). This Agreement and any non-contractual obligations arising out of or in connection with it are governed by the laws of Singapore.

Arbitration (Swiss seat). Any dispute arising out of or in connection with this Agreement shall be resolved by arbitration in accordance with the Swiss Rules of International Arbitration of the Swiss Arbitration Centre in force on the date on which the Notice of Arbitration is submitted. The number of arbitrators shall be [one / three]. The seat of the arbitration shall be Zürich. The language shall be English. The parties agree that the emergency arbitrator provisions apply.

Arbitration (Singapore seat). Any dispute arising out of or in connection with this Agreement, including any question regarding its existence, validity or termination, shall be referred to and finally resolved by arbitration administered by the Singapore International Arbitration Centre in accordance with the Arbitration Rules of the SIAC for the time being in force. The seat of the arbitration shall be Singapore. The tribunal shall consist of [one / three] arbitrators. The language shall be English.

Interim relief. Nothing in this clause prevents either party from seeking interim or conservatory relief, including orders freezing or preserving digital assets, from any court of competent jurisdiction before the constitution of the tribunal or in support of the arbitration.

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> **Digital asset specifics.** The tribunal may order the delivery of specific digital assets, the disclosure of private keys or seed phrases to an escrow agent appointed by the tribunal, and the execution of transactions on a distributed ledger, and the parties undertake to comply with such orders. The parties agree that transaction records on the relevant distributed ledger are admissible as evidence of the transactions they record.

La réserve relative aux mesures provisoires est essentielle lorsque des jetons sont en jeu, car la constitution d'un tribunal arbitral prend des mois alors que les jetons se déplacent en quelques minutes. Les Swiss Rules comme le règlement du SIAC prévoient des arbitres d'urgence. Les tribunaux singapouriens ont accordé des mesures de gel à l'appui d'un arbitrage contre des personnes inconnues.[2] La clause relative à la communication des clés à un agent séquestre est novatrice. À ma connaissance, elle n'a pas encore été mise à l'épreuve devant un tribunal suisse au stade de l'exécution, mais elle a été respectée volontairement dans des transactions.

Notes

1. Convention du 10 juin 1958 pour la reconnaissance et l'exécution des sentences arbitrales étrangères (RS 0.277.12 ; Singapour : International Arbitration Act 1994, Second Schedule) ; LDIP, art. 176 ss ; voir Partie H, chapitre VIII, et Partie N, chapitre VI. ↩
2. SIAC Rules 2025, Schedule 1 (Emergency Arbitrator) ; Swiss Rules 2021, art. 43 ; International Arbitration Act 1994, section 12A ; voir Partie N, chapitre VI. ↩

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