Legal foundations and the comparison with Geneva

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Geneva and Singapore built their financial centres on different legal traditions. Geneva's legal order grew from its own statutes, from the Roman law heritage of the European continent and, after 1848 and 1907, from the federal legislation and the Civil Code of the Swiss Confederation. It is a codified system, in which the statute is the primary source of law and the judge applies and interprets the code. Singapore's legal order was received from England by royal charter and developed by judges. It remains a system in which precedent plays a central role and in which much of commercial law is judge-made.

The difference affects the practice of the two centres in concrete ways. Contracts under Singapore law tend to be longer and more detailed, since the parties cannot rely on a code to supply default rules for every situation. Trusts, which Swiss law recognises only through the Hague Trust Convention, are a native institution of Singapore law. The choice between Singapore law and Swiss law as the governing law of an international contract, examined in Part J, is a choice between two legal cultures, each with its own strengths.

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The comparison also shows a common feature. Both centres owe their success in part to legal certainty – a stable sovereign, independent courts and reliable rules on contract and property – and both have maintained this certainty through periods of political change. For Singapore, the foundations of legal certainty were laid in the years between 1824 and 1826, when a disputed trading post became a British possession with its own court and its own law.

In figures

Anglo-Dutch Treaty: signed on 17 March 1824, ratifications exchanged on 8 June 1824. Treaty of Friendship and Alliance: 2 August 1824, with an additional lump sum of 20,000 Spanish dollars for the chiefs. Second Charter of Justice: 27 November 1826. Recorder's salary: £4,000 a year. Seat of government of the Straits Settlements moved to Singapore: 1832. Third Charter of Justice: 12 August 1855. Cut-off date of the Application of English Law Act: 12 November 1993. Duration of the Torrens reform from proposal to commencement: more than 75 years.

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