



## The Singapore Mediation Convention

***The Singapore Mediation Convention, which is expected to be signed on August 1, 2019, will make it easier for businesses to enforce mediated settlement agreements with their cross-border counterparts.***

### Significance

The Singapore Mediation Convention ("Convention"), which is expected to be signed on August 1, 2019, facilitates the enforcement of international settlement agreements arising from mediation. At present, parties who conclude a mediated settlement outside the context of court proceedings or arbitration can generally only enforce the settlement as a contract. This typically involves first obtaining a court judgment for breach of contract and then enforcing the judgment in a chosen jurisdiction— a potentially lengthy and costly process. The Convention will make it easier for businesses to enforce mediated settlement agreements with their cross-border counterparts. The Convention will allow the enforcing party to go directly to a court in a state party where enforcement is sought instead of first obtaining a court judgment for breach of contract. That court must then enforce the settlement agreement in accordance with the state party's rules of procedure and under the conditions laid down in the Convention.

### Status

The United Nations ("UN") Commission on International Trade Law ("UNCITRAL") approved the final draft of the Convention on June 26, 2018, at its 51<sup>st</sup> session. This concludes three years of vigorous debate by UNCITRAL Working Group II (Dispute Settlement) with participation by 85 member states and 35 international governmental and nongovernmental organizations. It is contemplated that the Convention will be adopted by the UN General Assembly later this year. Once the UN General Assembly, which is composed of all members states of the UN, adopts the Convention, member states can then sign the Convention, indicating the member states' intention to uphold the Convention. A signing ceremony for the Convention is expected in Singapore on August 1, 2019. The Convention would come into force once it is ratified by at least three member states. While 85 member states were involved in the debate leading up to UNCITRAL's approval of the final draft of the Convention, it remains to be seen how many member states will sign and ratify the Convention.

### Main Features

The Convention applies to international agreements arising from the mediation efforts of parties to resolve commercial disputes. State parties to the Convention must enforce a mediated commercial settlement in accordance with the state parties' rules of procedure and under the conditions laid down in the Convention.

The Convention does not apply to settlement agreements that: (i) have been approved by a court or have been concluded in the course of court proceedings; (ii) are enforceable as a judgment in the state of that court; or (iii) have been recorded and are enforceable as an arbitral award. The rationale of this carve-out is that there are other international instruments (e.g., the New York Convention and the Hague Convention on the Choice of Court Agreements) that specifically govern these types of settlement agreements.



Matthew J. Skinner  
Singapore / London



Lydia Ni  
Singapore

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