

# 46 States Sign Singapore Convention on Mediation



On 7 August 2019, 46 countries (including the People's Republic of China and the United States) signed the [United Nations Convention on International Settlement Agreements Resulting from Mediation](#) (also called the Singapore Convention on Mediation) (the **Convention** or the **Singapore Convention**). Without the Convention, an international mediated settlement agreement can only be enforced in the same way as any other contract (*i.e.*, through judicial or arbitral proceedings for breach of contract).

Similar to the purpose of New York Convention on the enforcement of arbitral awards, the Convention therefore aims to facilitate the enforcement of "*international*" mediated settlement agreements.

By virtue of the Singapore Convention, a mediated settlement agreement shall be deemed "*international*" if (i) at least two parties to the agreement have their place of business established in different States; or (ii) the State, in which the parties to the agreement established their place of business, is different from either the State in which a substantial part of the obligations under the agreement is performed or the State to which the subject matter of the

settlement agreement is most closely connected.

In order to make international mediated settlement agreements directly enforceable, Article 3 of the Convention provides, as a general rule, that when faced with a request to enforce such agreement, the State party to the Convention should make sure that the agreement is enforced in accordance with the rules of procedure provided for in that particular State and without substantive review or litigation.

To this end, a party wishing to enforce a settlement agreement under the Convention will have to supply to the competent authority of the State party to the Convention from which the relief is sought; (i) the settlement agreement signed by the parties; and (ii) evidence (such as the mediator's signature on the settlement agreement) that the settlement agreement resulted from mediation (Article 4).

Furthermore, Article 5 of the Singapore Convention provides several grounds for refusing to enforce an international settlement agreement, such as (i) if a party to the settlement agreement was under some incapacity or (ii) if the settlement agreement is null and void, inoperative, incapable of being performed, not binding, not final or has been subsequently modified, or (iii) if the obligations in the settlement agreement have been performed or are not clear or not comprehensible.

Importantly, mediated settlement agreements which relate to personal, family, household, inheritance or employment disputes do not fall within the scope of the Convention. In addition, the Convention will not apply to settlement agreements which result from court or arbitral proceedings.

Finally, it must be noted that, pursuant to Article 14, the Singapore Convention will enter into force after six months following the completion of the ratification process of the Convention by three States.

Given that parties usually stick to the engagements agreed upon in their mediated agreements, it remains to be seen whether parties to such agreements will often need to resort to the Convention in order to enforce their agreements. That being said, the mere fact that the Convention provides reassurance for the enforcement of mediated agreements will certainly be a crucial factor for the parties to consider mediation as a possible litigation option.

On the day of signature, [the following countries signed the Convention](#): Afghanistan, Belarus, Benin, Brunei Darussalam, Chile, People's Republic of China, Colombia, Congo, Democratic Republic of Congo, Eswatini, Fiji, Georgia, Grenada, Haiti, Honduras, India, Iran, Israel, Jamaica, Jordan, Kazakhstan, Laos, Malaysia, Maldives, Mauritius, Montenegro, Nigeria, North Macedonia, Palau, Paraguay, the Philippines, Qatar, Republic of Korea, Samoa, Saudi Arabia, Serbia, Sierra Leone, Singapore, Sri Lanka, Timor-Leste, Turkey, Uganda, Ukraine, United States of America, Uruguay and Venezuela. Notably, Australia, the European Union and its Member States (including the United Kingdom) have not signed the Convention. According to [press reports](#), the reason why the European Union has not signed the Convention is the ongoing internal debates on the competence of the European Union to sign such a treaty (*i.e.*, whether the European Union as a whole can sign the Convention or whether it must be signed by its Member States individually).

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