



Information brochure

**UNITED NATIONS CONVENTION ON
INTERNATIONAL SETTLEMENT AGREEMENTS
RESULTING FROM MEDIATION**

“SINGAPORE CONVENTION ON MEDIATION”

A large, light blue wireframe globe graphic is positioned on the left side of the page, partially overlapping the dark blue banner at the bottom.

**SIGNING CEREMONY
SINGAPORE, 7 AUGUST 2019**

The Singapore Convention on Mediation
A uniform and efficient framework for international settlement
agreements resulting from mediation

The United Nations Convention on International Settlement Agreements Resulting from Mediation, also known as the “Singapore Convention on Mediation” (the “Singapore Convention” or the “Convention”) applies to international settlement agreements resulting from mediation, concluded by parties to resolve a commercial dispute. It provides a uniform and efficient framework for the enforcement of international settlement agreements resulting from mediation and for allowing parties to invoke such agreements, akin to the framework that the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York, 1958) (the “New York Convention”) provides for arbitral awards.

The Singapore Convention has been designed to become an essential instrument in the facilitation of international trade and in the promotion of mediation as an alternative and effective method of resolving trade disputes. It ensures that a settlement reached by parties becomes binding and enforceable in accordance with a simplified and streamlined procedure. It thereby contributes to strengthening access to justice and the rule of law.

Mediation, known for improving efficiency of dispute resolution, has several advantages. Mediation is flexible. Parties create their own process and work on their own agreement, they may discuss legal but also non-legal issues, and find the most convenient solution to their dispute. As the procedure is tailored to the needs and concerns of the parties, it may be less time and resources consuming than adjudication.

Until the adoption of the Singapore Convention, the often-cited challenge to the use of mediation was the lack of an efficient and harmonized framework for cross-border enforcement of settlement agreements resulting from mediation. This is in response to this need that the Singapore Convention has been developed and adopted by the United Nations. In that context, the Convention contributes to the development of a mature, rule-based global commercial system (implementing the Sustainable Development Goals, mainly SDG 16).

The primary goals of the Convention are to
facilitate international trade and
promote the use of mediation
for the resolution of cross-border commercial disputes.

This brochure provides information on the Convention as well as on the procedures that States or regional economic integration organizations must follow in order to sign, ratify, accept, approve or accede to this Convention. Included in the annexes are model instruments of (i) full powers; (ii) ratification, acceptance or approval; (iii) accession; (iv) reservation; and (v) withdrawal of a reservation, which can be used for deposit with the Secretary-General of the United Nations.

I. General information on the Convention

The Convention was adopted by the General Assembly in December 2018 with the aim of providing States and regional economic integration organizations with a cross-border framework for the enforcement of settlement agreements resulting from mediation and for allowing a party to invoke a settlement agreement.

By becoming a Party to the Convention, a State or regional economic integration organization (“Party”) consents to apply the Convention to international settlement agreements resulting from mediation (**article 1 of the Convention**).

The Convention provides for Parties’ obligations regarding both enforcement of settlement agreements covered by the Convention and the right for a disputing party to invoke a settlement agreement. Each Party may determine the procedural mechanisms that may be followed where the Convention does not prescribe any requirement (**article 3 of the Convention**).

Noteworthy are the exclusions from the scope of the Convention (**article 1 of the Convention**), as it does not apply to settlement agreements concluded to resolve a dispute arising from transactions engaged in by a consumer for personal, family or household purposes, or relating to family, inheritance or employment law. Settlement agreements that are enforceable as a judgment or as an arbitral award are also excluded from the scope of the Convention. The purpose of this last exclusion is to avoid possible overlap with existing and future conventions, namely the New York Convention, the Convention on Choice of Court Agreements (2005) and the preliminary draft convention on judgments, under preparation by The Hague Conference on Private International Law.

The formalities for relying on a settlement agreement under the Convention are simple. The disputing party shall supply to the competent authority the settlement agreement signed by the parties and evidence that the settlement agreement results from mediation. The competent authority may require any necessary document in order to verify that the requirements of the Convention are complied with (**article 4 of the Convention**).

Following an approach similar to that of the New York Convention, the Convention provides an exhaustive list of grounds under which a court may refuse to grant relief (**article 5 of the Convention**).

The grounds can be grouped into three main categories, as follows: (i) in relation to the parties, their incapacity; (ii) in relation to the settlement agreement, its invalidity, or the fact that the settlement agreement is not final, not binding or has been subsequently modified, the fact that the obligations in the settlement agreement have been performed or are not clear and comprehensible, or that granting relief would be contrary to the terms of the settlement agreement; (iii) in relation to the mediation procedure, due process issues regarding the procedure or the independence and impartiality of the mediator.

The Convention defines two additional grounds upon which a court may, on its own motion, refuse to grant relief. Those grounds relate to the fact that a dispute would not be capable of settlement by mediation or would be contrary to public policy.

The Convention seeks to encourage granting relief under the Convention in the greatest number of cases as possible. This purpose is achieved by allowing the continued application of law or treaties of the country where the settlement agreement is sought to be relied upon that offer a regime more favorable than that of the Convention (**article 7 of the Convention**).

A Party to the Convention has the flexibility to formulate reservations, thereby excluding from the application of the Convention settlement agreements to which it is a party, or to which any governmental agencies or any person acting on behalf of a governmental agency is a party, to the extent specified in the declaration. A Party may also declare that it shall apply the Convention only to the extent that the parties to the settlement agreement have agreed to the application of the Convention. By defining specific timing for formulation and withdrawal of reservations, the Convention provides the necessary level of flexibility (**article 8 of the Convention**). The Convention and any reservation thereto apply prospectively, that is to settlement agreements concluded after the entry into force of the Convention for the Party concerned (**article 9 of the Convention**).

Benefits of the Convention

The use of mediation results in significant benefits, such as:

- Reducing the instances where a dispute leads to the termination of a commercial relationship;
- Facilitating the administration of international transactions by commercial parties; and
- Producing savings in the administration of justice by States.

The Convention contributes to the establishment of a harmonized legal framework for a fair and efficient settlement of international investment disputes. Being a binding international instrument, it will bring added assurance of certainty and stability to this framework, thereby contributing to the Sustainable Development Goals.

II. Procedure for becoming a party

A. Signature

The Convention is open for signature in Singapore, on 7 August 2019, and thereafter at the United Nations Headquarters in New York (**article 11(1) of the Convention**).

Under established international practice, only Heads of State, Heads of Government or Ministers for Foreign Affairs are empowered, by virtue of their functions, to sign multilateral treaties on behalf of States without having to produce full powers to that effect. Other representatives intending to sign the Convention must have the appropriate full powers, issued by one of these authorities, which expressly authorize signing the Convention by a named representative. States or regional economic integration organizations wishing to sign the Convention should, as necessary, provide copies of the required full powers in advance to the Treaty Section, Office of Legal Affairs, at United Nations Headquarters (Address: 2 UN Plaza – 323 E 44th street, Room DC2-0520, New York, NY 10017, United States of America. Tel.: + 1-212-963-5047. Fax: + 1-212-963-3693. Email: hamdyd@un.org; guevarah@un.org).

By signing the Convention, a State or regional economic integration organization signals its intention to become a party to it in the future. Once it has signed the Convention, a State or regional economic integration organization must not act in a manner that would defeat the object and purpose of the Convention prior to its entry into force (see article 18, *Vienna Convention on the Law of Treaties, 1969*).

A State or regional economic integration organization may sign the Convention at any time. Signing should be arranged with the Treaty Section of the United Nations Office of Legal Affairs (see contact information above). While some treaties do not leave open the period for signing, this Convention is open for signing indefinitely.

B. Consent to be bound (ratification, acceptance, approval or accession)

In accordance with article 11(2)
“This Convention is subject to ratification, acceptance or approval by the signatories”.

The Convention provides for States to express their consent to be bound by signature subject to ratification, acceptance or approval. Providing for signature subject to ratification allows States time to seek approval for the Convention at the domestic level and to enact any legislation necessary to implement the Convention domestically, prior to undertaking the legal obligations under the Convention at the international level.

Ratification at the international level, which indicates to the international community a State's commitment to undertake the obligations under a treaty, should not be confused with ratification at the national level, which a State may be required to undertake in accordance with its own constitutional provisions before it expresses consent to be bound internationally. The ratification at the national level must be carried out, where required, in accordance with the Constitution of the State, and the ratification at the international level must be undertaken by the deposit of the instrument of ratification, acceptance or approval (see below and Annex 2).

Instruments of ratification, acceptance, approval or accession must be signed by the Head of State, Head of Government or Minister for Foreign Affairs (or any other person acting in such a position for the time being or with full powers for that purpose issued by one of the above authorities). Such instruments become effective only when the State or regional economic integration organization deposits it with the Secretary-General of the United Nations, who is designated as the depositary of the Convention (**articles 10 and 11(4) of the Convention**). The depositary functions of the Secretary-General are discharged by the Treaty Section of the United Nations Office of Legal Affairs (see contact information above). When feasible, the State or regional economic integration organization should provide courtesy translations, in English and/or French, of instruments that are in other languages. This will help ensure that the instrument is promptly processed.¹

C. Entry into force

The Convention will enter into force six months after deposit of the third instrument of ratification, acceptance, approval or accession (**article 14(1) of the Convention**).

For all other States or regional economic integration organizations that ratify, accept, approve or accede to the Convention after the deposit of the third instrument, the Convention will enter into force six months after the date on which that State or regional economic integration organization has made its deposit.

D. Reservations

The Convention allows certain reservations pursuant to article 8(1)(a) and (b). Reservations other than those specified under article 8(1)(a) and (b) are not permitted (**article 8(2) of the Convention**).

1

Deposit of reservations

Reservations must be signed by the Head of State, Head of Government or Minister for Foreign Affairs (or any other person acting in such a position for the time being or with full powers for that purpose issued by one of the above authorities). They must be formally notified to the Secretary-General, in his capacity as depositary (his functions being discharged by the Treaty Section of the Office of Legal Affairs). They can be deposited at any time (**article 8(3) of the Convention**).

Acceptance and objection to reservations - Effect

Reservations made at the time of signature are subject to confirmation upon ratification, acceptance or approval and take effect simultaneously with the entry into force of the Convention in respect of the Party concerned (**article 8(3) of the Convention**).

Reservations made at the time of ratification, acceptance or approval of the Convention or accession thereto take effect simultaneously with the entry into force of the Convention in respect of the Party concerned (**article 8(3) of the Convention**).

Withdrawal of reservations

A Party may withdraw a reservation at any time. Such withdrawal is to be deposited with the Secretary-General, in his capacity as depositary, and takes effect six months after the deposit (**article 8(5) of the Convention**).

In accordance with article 8(3) of the Convention, Parties may make multiple reservations in a single instrument. In such an instrument, each declaration shall constitute a separate reservation capable of separate withdrawal.

For further information relating to the legal requirements for signature, consent to be bound, entry into force and reservations, please refer to the Treaty Handbook, prepared by the Treaty Section of the United Nations Office of Legal Affairs, available online in the United Nations Treaty Collection (<https://treaties.un.org>):

https://treaties.un.org/Pages/Resource.aspx?path=Publication/TH/Page1_en.xml

Annex 1 – Model instrument of full powers

**(To be signed by the Head of State, Head of Government
or Minister for Foreign Affairs, or
Representative of regional economic integration organization)**

FULL POWERS

I, [name and title of the Head of State, Head of Government or Minister for Foreign Affairs /
Representative of regional economic integration organization],

HEREBY AUTHORIZE [name and title] to sign the United Nations Convention on
International Settlement Agreements Resulting from Mediation done at New York on [date] on
behalf of [the Government of (name of State) / name of regional economic integration
organization].

Done at [place] on [date].

[Signature]

**ANNEX 2 – MODEL INSTRUMENT OF RATIFICATION,
ACCEPTANCE OR APPROVAL**

**(To be signed by the Head of State, Head of Government
or Minister for Foreign Affairs, or
Representative of regional economic integration organization)**

[RATIFICATION / ACCEPTANCE / APPROVAL]

WHEREAS the United Nations Convention on International Settlement Agreements Resulting from Mediation was adopted at New York on [date],

AND WHEREAS the said Convention has been signed on behalf of [the Government of (name of State) / name of regional economic integration organization] on [date],

NOW THEREFORE I, [name and title of the Head of State, Head of Government or Minister for Foreign Affairs / Representative of regional economic integration organization] declare that [the Government of (name of State) / name of regional economic integration organization], having considered the above-mentioned Convention, [ratifies, accepts, approves] the same and undertakes faithfully to perform and carry out the stipulations therein contained.

IN WITNESS WHEREOF, I have signed this instrument of [ratification, acceptance, approval] at [place] on [date].

[Signature]

ANNEX 3 – MODEL INSTRUMENT OF ACCESSION

**(To be signed by the Head of State, Head of Government
or Minister for Foreign Affairs, or
Representative of regional economic integration organization)**

ACCESSION

WHEREAS the United Nations Convention on International Settlement Agreements Resulting from Mediation was adopted at New York on [date],

NOW THEREFORE I, [name and title of the Head of State, Head of Government or Minister for Foreign Affairs / Representative of regional economic integration organization] declare that [the Government of (name of State) / name of regional economic integration organization], having considered the above-mentioned Convention, accedes to the same and undertakes faithfully to perform and carry out the stipulations therein contained.

IN WITNESS WHEREOF, I have signed this instrument of accession at [place] on [date].

[Signature]

ANNEX 4 – MODEL INSTRUMENT OF RESERVATION

**(To be signed by the Head of State, Head of Government
or Minister for Foreign Affairs, or
Representative of regional economic integration organization)**

(Parties may make multiple reservations in a single instrument)

[RESERVATION]

I, [name and title of the Head of State, Head of Government or Minister for Foreign Affairs / Representative of regional economic integration organization],

HEREBY DECLARE that [the Government of (name of State) / name of regional economic integration organization] makes the following reservation(s) in relation to [article 8(1)(a) / (1)(b)] of the United Nations Convention on International Settlement Agreements Resulting from Mediation:

IN WITNESS WHEREOF, I have hereunto set my hand and seal.

Done at [place] on [date].

[Signature and title]

**ANNEX 5 – MODEL INSTRUMENT OF WITHDRAWAL OF
RESERVATION(S)**

**(To be signed by the Head of State, Head of Government
or Minister for Foreign Affairs, or
Representative of regional economic integration organization)**

WITHDRAWAL OF RESERVATION (S)

WHEREAS [the Government of (name of State) / name of regional economic integration organization] [ratified, approved, accepted, acceded to] the United Nations Convention on International Settlement Agreements Resulting from Mediation on [date],

AND WHEREAS, upon [ratification, approval, acceptance of / accession to] the Convention, [the Government of (name of State) / name of regional economic integration organization] made (a) reservation(s) under article(s) [---] of the Convention,

NOW THEREFORE I, [name and title of the Head of State, Head of Government or Minister for Foreign Affairs / Representative of regional economic integration organization], declare that [the Government of (name of State) / name of regional economic integration organization], having reviewed the said reservation(s), hereby withdraws [the same][the following reservations: [---]].

IN WITNESS WHEREOF, I have hereunto set my hand and seal.

Done at [place] on [date].

[Signature and title]