



ReSolution in Brief

Australia signs Singapore Convention on Mediation

Australia signed the United Nations Convention on International Settlement Agreements Resulting from Mediation, also known as the [“Singapore Convention on Mediation”](#) on 10 September 2021.

“A widely adopted Singapore Convention will promote efficiency in the use of judicial resources by encouraging parties to resolve their cross-border commercial disputes outside of courts,” said Australian Attorney-General Michaelia Cash in a [joint press release](#) on 30 September 2021, announcing Australia’s signing. Minister for Foreign Affairs Marise Payne added: “Signing the Convention demonstrates Australia’s support for enhanced simplicity, certainty and autonomy for parties in commercial disputes.”

The Singapore Convention on Mediation facilitates international trade and promotes mediation as an alternative and effective method of resolving commercial disputes by providing an effective mechanism for the enforcement of international settlement agreements resulting from mediation. It has been open for signature since 7 August 2019. Australia is the 55th country to sign the Convention.

Turkey and Honduras ratify Singapore Convention on Mediation

Two further countries, Honduras and Turkey, have ratified the Singapore Convention on Mediation.

The ratification by Honduras was effected on 2 September 2021 and the Convention will enter into force for Honduras on 2 March 2022. The ratification by Turkey was effected on 11 October 2021 and the Convention will enter into force for Turkey on 11 April 2022. There are now eight countries that have ratified the convention.

Ecuador ratifies ICSID Convention

The 1965 Convention on the Settlement of Investment Disputes between States and Nationals of Other States (the [“ICSID Convention”](#)) is a multilateral treaty which entered into force in 1966. It was designed to facilitate investments between countries by providing an independent platform for the conciliation and arbitration of investment disputes. The International Centre for Settlement of Investment Disputes (**ICSID**) is recognised as

one of the world's leading institutions for the settlement of investment-related disputes.

Ecuador signed the Convention in 1986, but sent a [written notice of denunciation](#) to the World Bank Group in 2009 under former President Rafael Correa's government. President Guillermo Lasso, who assumed the presidency in May this year, has subsequently arranged for both the signing and ratification of the Convention. President Lasso's power to ratify without the approval of the National Assembly has also been recognised by Ecuador's Constitutional Court.

Benin and Iraq ratify Mauritius Convention on Transparency

Benin and Iraq have ratified the United Nations Convention on Transparency in Treaty-based Investor-State Arbitration (the "[Mauritius Convention on Transparency](#)"). The Convention will come into force for Iraq on 20 February 2022. The Convention contains the consent of signatories to apply the UNCITRAL Rules on Transparency, a set of procedural rules for making publicly available information on investor-State arbitrations arising under investment treaties.

Iraq accedes to New York Convention

On 11 November 2021, Iraq became the 169th State Party to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (the "[New York Convention](#)"). The Convention will enter into force for Iraq on 9 February 2022.

The New York Convention has been lauded as one of the most successful treaties in the

area of commercial law and is recognised as a foundation instrument for international arbitration. It gives effect to the validity of arbitration agreements and provides for a simple process to obtain recognition and enforcement of arbitral awards.

South Korean court confirms power and seat in mystery case

The Seoul Central District Court was asked to consider the effect of an arbitration clause in an insurance contract entered into between a Korean insurance company and a Japanese generator supplier. The contract was governed by Bangladeshi law and required that disputes would be referred to the "Non-Life Insurance Arbitration Committee" for arbitration – an arbitration institution that does not exist.

On considering the case, the District Court found that:

- The arbitration agreement was valid, despite referring to the non-existent entity.
- The validity and interpretation of the arbitration agreement was governed by Bangladeshi law.
- Despite there being no direct reference to it, the seat of arbitration was Korea, and the Court therefore had the power to appoint an arbitrator.

Interestingly, it seems that this is not the first time the "Non-Life Insurance Arbitration Committee" has been referred to in Korean insurance policies. The Court issued a number of judgments on the matter, including Seoul Central District Court decision 2020KaGi418 dated 4 September 2020.

About the author



Belinda is the Head of the Knowledge Management team at NZDRC. She previously worked in the Parliamentary Counsel Office, Bell Gully as a Senior Associate and a Lecturer at The University of Auckland, where she gained a great level of experience in commercial property law, leasing and publishing of various legal articles.