



The Singapore Convention: How does it move the needle in growing the international mediation market?

Mr. Ban Jiun Ean

Date: 8 April 2020 **Time:** 1:00pm CEST

Presentation Summary:

Mr. Ban Jiun Ean, Executive Director of Singapore Mediation Centre, was invited this week to speak on the topic of ‘The Singapore Convention: How does it move the needle in growing the international mediation market?’. Mr. Ban started his presentation by sharing that the [Singapore Convention of Mediation](#)¹ (SCM) had catapulted mediation into the global arena of dispute resolution, and had opened up interest and discussions on mediation among users of dispute resolution.

Mr. Ban stated that there are currently 51 countries that have signed the SCM and added that the SCM would come into force on 12 September 2020 as three countries – Singapore, Fiji, and Qatar – have ratified the SCM.² He opined that the other Signatory countries may need some time to harmonize their legal systems with the SCM before ratifying it. However, Mr. Ban is hopeful that commercial parties will soon be able to enforce their settlement agreements in the Signatory countries. Mr. Ban also stated that parties may soon be able to stipulate in their contracts that mediation is to be conducted under the [UNCITRAL Model Law](#).

¹ United Nations Convention on International Settlement Agreements Resulting from Mediation.

² Status of United Nations Convention on International Settlement Agreements Resulting from Mediation available at:

https://uncitral.un.org/en/texts/mediation/conventions/international_settlement_agreements/status.

Mr. Ban applauds the efforts of the global mediation community, but also gave credit to the New York Convention³ as he opined that the New York Convention created an understanding about how an enforcement convention can effectively enhance globe trade and dispute resolution. As such, the New York Convention provided the basis of comfort on which Signatory countries decided to sign the SCM; Mr. Ban compared mediation's SCM to be the equivalent of arbitration's New York Convention.

Looking at the bigger picture, Mr. Ban stated that the SCM achieved two points. First, it galvanized the mediation community to collectively lobby their respective governments and ministries to be a signatory to the SCM. Second, it strengthened the voices of mediation advocates who have been promoting mediation to parties, businesses, and law firms. Mr. Ban also referred to Timothy Schnabel's example of a common retort by reluctant people to debunk some myths about mediation by explaining that the SCM now gives 'teeth' to the mediation agreements.

Mr. Ban suggested that the SCM is likely to persuade parties to incorporate mediation clauses in their contracts, and to invest their time and energy in mediation to settle their differences. Mr. Ban opined that by doing so, it would help the parties significantly during mediation. He also stated a belief that a properly conducted mediation would result in parties voluntarily complying with their settlement agreement to retain their commercial relationship. All of these would increase the probability for parties to arrive at a settlement agreement. This would ensure that the high settlement rate in mediation would sustain, and enforcement of the settlement agreement under the SCM would, in reality, rarely be necessary.

Mr. Ban concluded that the biggest success of the SCM has been to bring mediation into prominence and on par with arbitration and litigation in the international dispute resolution arena.

Q&A Discussion

Some interesting questions that were addressed by Mr. Ban during the interactive Q&A session:

- Whether the SCM can help when the choice of law clause is of a non-signatory State.
- Whether the SCM provides for regulations for online mediation.

³ The Convention on the Recognition and Enforcement of Foreign Arbitral Awards.

- What more needs to be done for international parties to use mediation more frequently in addition to the SCM.
- Why the EU is not yet a signatory to the SCM.
- What is the impact of the SCM on international arbitration.

We invite you to listen to Mr. Ban's answers from the video record of the session available via YouTube, as well as to catch up on his response to other questions not listed above.

Links to other requested resources that came up during the session are provided below:

- Obtaining formal accreditation by a standards body for individual mediators:⁴
 - [International Mediation Institute \(IMI\) Certified Mediator](#)
 - [Singapore International Mediation Institute \(SIMI\) – Credentialing Scheme](#)
- [Singapore Convention on Mediation Act 2020](#)

The team at SIMI and IMI would like to express our gratitude to Mr Ban Jiun Ean for sharing his time to be a speaker for the Singapore Convention Seminar Series, and to participants for joining us live for the session, which was a great success with participants joining us from all over the world. Do join us for the next seminar on 'South Africa and the Singapore Convention on Mediation'!

⁴ There is cross recognition offered between IMI's Certified Mediators and SIMI's Certified Mediators. Individual mediators accredited on other levels by IMI or SIMI do not qualify for cross recognition by virtue of having not met the minimum required experience.