

How Users View the Proposal for a UN Convention on the Enforcement of Mediated Settlements

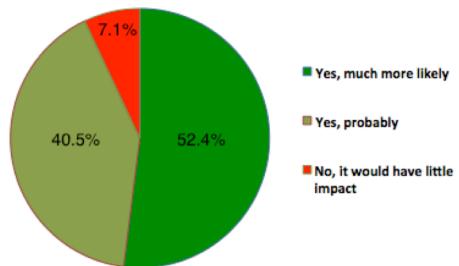
In February 2015, the U.N. Commission on International Trade Law (UNCITRAL) Working Group II (Arbitration and Conciliation) will meet in New York to consider the case for a Convention on the recognition and enforcement of international settlement agreements achieved through mediation.

In October and November 2014 the International Mediation Institute (IMI)¹, conducted a short survey of internal counsel and business managers to assist the Working Group's deliberations. The survey sought to assess the extent to which a mediation enforcement Convention is desired. The results are summarised below.

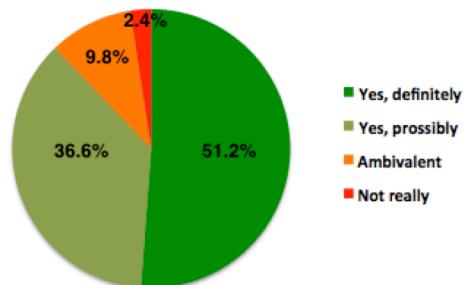
In total, there were 44 corporate responders of whom 51% were internal counsel and 29% were senior corporate managers. The remaining 20% held other roles. 52% of responders had experience in mediation and 42% had experience in arbitration. Only 5% experienced neither. Half of responders worked for companies with more than 10,000 employees, and 36% of responders were employed by companies with less than 100 employees.

The survey included just four substantive questions. The results with the responses received are set out below:

Would you be more likely to mediate a dispute with a party from another country if you knew that country ratified a U.N. Convention on the Enforcement of Mediated Settlements and that consequently any settlement could easily be enforced there?

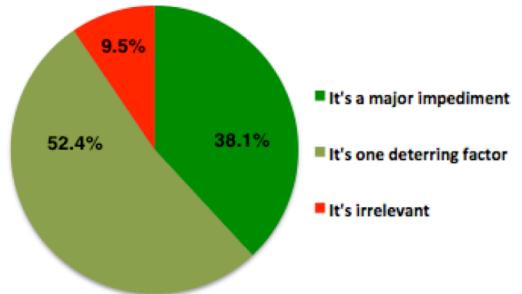


Could the existence of a widely-ratified Enforcement Convention make it easier for commercial parties to come to mediation in the first place?



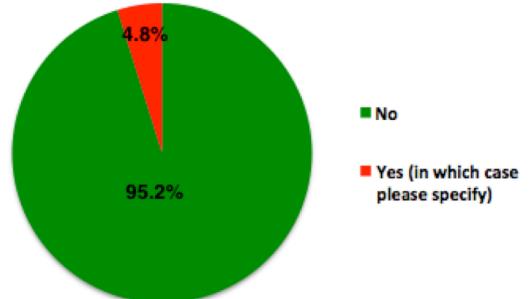
¹ IMI is a charitable foundation that promotes quality, transparency and ethics in mediation globally. <http://www.IMImediation.org>

In your opinion, to what extent does the absence of any kind of international enforcement mechanism for mediated settlements present an impediment to the growth of mediation as a mechanism for resolving cross-border disputes.



Can you envisage any reasons why, as a policy matter, the preparation of an International Convention on the Enforcement of Mediated Settlements, should not be undertaken?

Note: no reasons were given by those choosing "yes" to this question.



On October 29th, 2014, at the Convention on Shaping the Future of International Dispute Resolution held in the City of London Guildhall, over 150 delegates from over 20 countries in North America, Europe, Asia, Australasia, Africa and the Middle East were asked to vote, using electronic handsets, on more than 20 core issues that are perceived to have a direct influence on the development of mediation. The technology used enabled responses from users, advisers, service providers (including mediators and arbitrators) and educators to be instantly segmented and compared. Almost 20% of the delegates were corporate users of dispute resolution services. The delegates were asked to vote on the following proposition: *"An international Convention is needed to ensure that any mediated settlement agreement ... could be automatically recognized and enforced in all signatory countries"*. 73% of all delegates voted in favor, 13% were neutral or had no opinion and 14% disagreed. The results broken down by constituency group showed that 85% of users and 80% of service providers and educators, and 47% of advisors, voted in favor of such a Convention. No users, but over a quarter of advisors and 20% of providers and educators voted against such a convention. The detailed voting results were previously published² by IMI.

Conclusion

These results show a strong interest among corporate disputants for the contemplated Convention on the enforcement of mediated settlements.

² <http://www.imimediation.org/shaping-idr-convention-2014>