

New Med-Arb Protocol: SIMC Mediation Settlement Agreements to be Enforceable as SCIA Arbitral Awards

December 2022 | [Regional](#)



Introduction

There has been a growing trend globally in recent years towards alternative dispute resolution mechanisms such as mediation. In 2021, the Singapore International Mediation Centre ("**SIMC**") administered disputes with a total value of over US\$3 billion, equalling the total dispute value for the preceding six years (i.e. 2014 to 2020).

The strong trend towards mediation has been further aided by the Singapore Convention on Mediation (formally known as the United Nations Convention on International Settlement Agreements Resulting from Mediation) which was signed in 2020. In this regard, parties to the Singapore Convention are obligated to recognise and enforce international commercial settlement agreements, greatly improving the ease of international enforcement of settlement agreements. Indeed, despite the short span of time since it was opened for signature in August 2019, the Singapore Convention has 55 signatories as of December 2022, of which eight are parties to the Singapore Convention.

To further improve the enforceability of settlement agreements, SIMC and the Shenzhen Court of International Arbitration ("**SCIA**") [launched](#) the SIMC-SCIA Med-Arb Protocol ("**Protocol**") on 25 November 2022. The new Protocol allows for any settlement agreement resulting from mediation at SIMC to be recorded as an SCIA arbitral award, which can be efficiently and effectively enforced in China and elsewhere. The Protocol is the result of a 2020 Memorandum of Understanding ("**MOU**") between SCIA and SIMC. It provided that SCIA will include SIMC as one of its recognised mediation institutions, and that SCIA will refer cases to be administered by SIMC in appropriate cases.

We elaborate on the features and advantages of the new Protocol below.

Features of the Protocol

The Protocol applies to all disputes submitted to SIMC for mediation. This includes cases where arbitration proceedings have been first commenced at SCIA, then submitted to mediation at SIMC. Under the Protocol, if the submission is pursuant to an existing arbitration agreement between the parties, the parties agree that any dispute settled in the course of the SIMC mediation falls within the scope of the arbitration agreement. The arbitration will be suspended until SCIA receives the outcome of the SIMC mediation.

If a settlement agreement is reached, the Protocol dictates that any party may, with the consent of all parties to the mediation, apply to SCIA to record the settlement agreement as an arbitral award.

Advantages of the Protocol

Once recorded as an arbitral award, an SIMC settlement agreement may be enforced under the New York Convention (formally known as the Convention on the Recognition and Enforcement of Foreign Arbitral Awards). As the New York Convention has around 170 Contracting States, this significantly expands the number of jurisdictions in which the SIMC settlement agreement may be easily enforced in. This is especially useful for parties with commercial disputes in China or where the subject matter of the dispute is located in China.

The Protocol allow parties to tap on the wide adoption of the New York Convention to have greater ease and flexibility in enforcing settlement agreements. This would allow parties to make greater use of mediation as a form of dispute resolution (especially when there is an interest in preserving commercial relationships and/or to settle their disputes more quickly than through arbitral proceedings), while retaining the assurance that any resulting agreement may be enforced as easily as an arbitral award.

Concluding Remarks

The Protocol marks a significant step in the cooperation between SIMC and SCIA, which is a major arbitration centre which handled disputes totalling RMB 85.62 billion in value in 2021. The cooperation between SIMC and SCIA will no doubt further propel SIMC in its bid to become a global hub for mediation.

The Protocol is one of many initiatives pursued by SIMC in promoting mediation as an international dispute resolution mechanism, as well as positioning Singapore as an international mediation hub. For instance, SIMC regularly expands its panel of mediators. During the recent Singapore Convention Week 2022, 22 senior practitioners, in-house counsel, and industry leaders joined SIMC's specialist mediator panel, bringing the panel to over 220 specialist mediators. Among the new specialist mediators were Rajah & Tann Singapore partners [Kelvin Poon](#) (Deputy Managing Partner), [Adrian Wong](#) (Head, Dispute Resolution), and [Jonathan Yuen](#) (Head, Commercial Litigation). With the huge leap in total dispute value, SIMC is poised to take its place alongside Singapore's other major dispute resolution institutions such as the Singapore International Arbitration Centre (SIAC) and the Singapore International Commercial Court (SICC).

For further queries, please feel free to contact our team below.

Visit [Arbitration Asia](#) for insights from our thought leaders across Asia concerning arbitration and other alternative dispute resolution mechanisms, ranging from legal and case law developments to market updates and many more.

Contacts



Jonathan Yuen
Partner, Singapore

T +65 6232 0161
jonathan.yuen@rajahtann.com



Yu Zheng
Partner (Foreign Lawyer), Singapore

T +65 6232 0613
yu.zheng@rajahtann.com



Ang Leong Hao
Partner, Singapore

T +65 6232 0466
leong.hao.ang@rajahtann.com



Ang Tze Phern
Partner, Singapore

T +65 6232 0922
tze.phern.ang@rajahtann.com

Please feel free to contact the editorial team of *Arbitration Asia* at arbitrationasia@rajahtannasia.com, and follow us on LinkedIn [here](#).

Rajah & Tann Asia is a network of member firms with local legal practices in Cambodia, Indonesia, Lao PDR, Malaysia, Myanmar, the Philippines, Singapore, Thailand, and Vietnam. Our Asian network also includes our regional office in China as well as regional desks focused on Brunei, Japan, and South Asia. Member firms are independently constituted and regulated in accordance with relevant local requirements.

The contents of this article are owned by Rajah & Tann Asia together with each of its member firms and are subject to all relevant protection (including but not limited to copyright protection) under the laws of each of the countries where the member firm operates and, through international treaties, other countries. No part of this article may be reproduced, licensed, sold, published, transmitted, modified, adapted, publicly displayed, broadcast (including storage in any medium by electronic means whether or not transiently for any purpose save as permitted herein) without the prior written permission of Rajah & Tann Asia or its respective member firms.

Please note also that whilst the information on this article is correct to the best of our knowledge and belief at the time of writing, it is only intended to provide a general guide to the subject matter and should not be treated as legal advice or a substitute for specific professional advice for any particular course of action as such information may not suit your specific business and operational requirements. You should seek legal advice for your specific situation. In addition, the information on this article does not create any relationship, whether legally binding or otherwise. Rajah & Tann Asia and its member firms do not accept, and fully disclaim, responsibility for any loss or damage which may result from accessing or relying on the information on this article.