

Singapore Convention Response

Submission to the Department of Attorney General

November, 23, 2020

The Australian Chamber of Commerce and Industry, Australia's largest business advocacy network representing over 300,000 businesses employing millions of Australians, welcomes the opportunity to provide the following comments on the United Nations Convention on International Settlement Agreements Resulting from Mediation, Discussion Paper:

The Australian Chamber of Commerce and Industry is the national committee for the International Chamber of Commerce (ICC), the largest and most representative business organisation in the world, with over 45 million members in over 100 countries. Our unique Australian membership of ICC, the International Organisation of Employers (IOE) and Business at the OECD (BIAC) gives us a well-informed national and global perspective on international trade and investment issues.

Questions

1.1 Should Australia become a Party to the Singapore Convention? Why or why not?

Yes. Commercial parties in dispute over their international trade or investment relations should have choice about efficient and effective dispute mechanisms including mediation. Outcomes from Mediation should also be able to be enforced within jurisdictions, should non-performance occur; notwithstanding that mediation, by its nature, should result in mutually acceptable outcomes for parties involved.

The Convention on the Recognition and Enforcement of Foreign Arbitral Awards, commonly known as the "New York Convention" has successfully supported international dispute resolution since 1959, and we hope that the Singapore Convention will be similarly successful.

Many Australian arbitrators have been able to export their services to the world, along with the contract drafting efforts of legal experts supporting Australian businesses in global trade and investment. With this convention, they will now also have a new set of tools to support their clients, the firms that undertake the commercial dealings, thus assisting to advance Australia in our international trade engagements.

1.2 Do you have any concerns about Australia becoming a Party to the Singapore Convention? If so, please provide details.

No.

1.3 What, if any, reservations should Australia make if it was to become a Party to the Singapore Convention?

No comments

1.4 What are your views on the Singapore Convention's broad definition of mediation (outlined below in 5.3)?

ACCI notes the broad definition of mediation acknowledges that different forms and methods in which mediation may be carried. ACCI considers that a broad definition is appropriate and beneficial.

1.5 What are your views on the grounds for refusing to enforce a mediated settlement agreement?

ACCI notes that the grounds for refusing to enforce a mediated settlement agreement are limited. The grounds are similar to the grounds on which enforcement of an award may be refused under the New York Convention, which have been key to the great success of the latter convention in providing an efficient and trusted mechanism for resolving cross-border disputes.

About the Australian Chamber of Commerce & Industry

The Australian Chamber of Commerce and Industry speaks on behalf of Australian Businesses at home and abroad. We represent hundreds of thousands of businesses in every state and territory and across all industries. Ranging from small and medium enterprises to the largest companies, our network employs millions of people.

The Australian Chamber membership list can be viewed at www.australianchamber.com.au/membership/current-members/

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