

ENFORCING MEDIATED SETTLEMENT AGREEMENTS UNDER THE NEW YORK CONVENTION: FROM CONTROVERSIES TO CREATIVITIES?

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ABSTRACT

Abbreviated as MSA, a mediated settlement agreement is an agreement between parties arising out of mediation to resolve disputes. Unlike arbitral awards, which enjoy global enforcement under the New York Convention, the enforcement of MSAs remains unpredictable and unsatisfactory. This article examines the ongoing debate of whether and how cross-border MSAs can be enforced as foreign arbitral awards under the New York Convention. It is part of an international collaborative project which explores the potential for global enforcement of cross-border MSAs similar to that of the New York Convention (the “MSA Project”). That project’s ultimate ambition is to produce guidelines for drafting an international instrument that will harmonise (if not supersede) the current regimes for enforcing cross-border MSAs.

KEYWORDS: *mediated settlement agreement, MSA; New York Convention, award on agreed terms, consent award, Model Law on International Commercial Conciliation*

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