

TURNING THE RIVALROUS RELATIONS BETWEEN ARBITRATION AND MEDIATION INTO COOPERATIVE OR CONVERGENT MODES OF A DISPUTE SETTLEMENT MECHANISM FOR COMMERCIAL DISPUTES IN EAST ASIA

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ABSTRACT

This article discusses current developments in East Asia to more effectively use mediation with international commercial arbitration, supported by the 2019 United Nations Convention on International Settlement Agreements Resulting from Mediation (the “Singapore Convention”) and the UNCITRAL Model Law on International Commercial Mediation (the “UNCITRAL Model Mediation Law”), and by online dispute resolution using innovative technology (including artificial intelligence, machine learning, the internet of things, blockchain, distributed ledger technology and smart contracts). It discusses the background to the changing approach including the increasing pressure for arbitration to become a mechanism of last resort in international dispute resolution prompted by policy makers’ and users’ demands for cheaper, quicker and culturally more international dispute resolution and the changing sources of international investment, developments in international relations including the Belt and Road Initiative announced by China, and the initiatives being undertaken by various investment and trade communities including APEC, particularly focusing on micro, small and medium sized enterprises (each a “MSME”). This article briefly refers to the current status of online dispute resolution utilizing innovative technology, and the legal opportunities and challenges posed by it. Finally, it briefly refers to some neuroscience research relevant to dispute resolution.

KEYWORDS: *mediation, arbitration, Singapore Convention, online, technology*

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