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### **A Welcome Change for Mediation**

The attractiveness of mediation as an alternative dispute resolution method is often reduced by difficulties in the enforcement of any settlement arrived at through the process. Where the counterparty fails to honour its promises, the enforcing party would typically have to initiate a lengthy and costly process of first obtaining a court judgment or arbitral award for breach of contract, and then seeking to enforce the judgment or award. This problem will be exacerbated where enforcement is sought in another jurisdiction.

However, new developments in the international mediation landscape, aimed at giving settlement agreements “teeth”, may now make commercial parties reconsider mediation as an expedient tool to amicably resolve their cross-border disputes.

Yesterday, in Singapore, delegates from nations worldwide witnessed the signing of the United Nations Convention on International Settlement Agreements Resulting from Mediation (“the Singapore Convention”) by 46 countries, including the US, China and Malaysia.

Akin to the New York Convention for arbitral awards, the Singapore Convention facilitates the enforcement of international commercial settlement agreements arising from mediation in a state which is a signatory. Such enforcement can only be resisted on limited grounds under the Singapore Convention, such as serious misconduct of the mediator, nullity of the impugned settlement agreement, or public policy grounds.

The Singapore Convention will enter into force six months after ratification by the signatories. With this new legal framework, mediation is anticipated to become more attractive to cross-border businesses, with investors given greater assurance over the enforcement of mediated settlement agreements, while continuing to benefit from the flexibility, cost efficiency and amicability that mediation stands to offer.

Closer to home, the manner in which this significant milestone would positively impact or reshape the alternative dispute resolution arena in Malaysia remains a space to be watched.

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