Let’s talk: The future of energy dispute resolution

The United Nations Convention on International Settlement Agreements Resulting from Mediation ("Singapore Convention on Mediation")

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The Singapore Convention on Mediation: Key elements

• An innovative approach to define an “international” settlement agreements (art. 1):
  – Not the place where the agreement was entered (as in the New York Convention) but the parties having their places of business in different States;
  – Could even apply to a domestic situation if the State in which the parties are located is not where a substantial part of the obligations is performed is not the State with which the subject matter of the settlement agreement is most closely connected.
The Singapore Convention on Mediation: Exclusions

- The Convention does not apply to agreements to settle in consumer disputes or relating to family, inheritance or employment law.
- The Convention does not apply to:
  - (a) Settlement agreements that have been approved by a court or concluded in the course of proceedings before a court and are enforceable as a judgment in the State of that court;
  - (b) Settlement agreements that have been recorded and are enforceable as an arbitral award.
The Singapore Convention on Mediation: Enforcement

- States Parties undertake to “enforce” settlement agreements (no reference to “recognition”) and give it evidentiary effect (art. 3).
- Grounds for refusal adapted from art. V of the New York Convention, with a few additions:
  - the obligations have been performed or are unclear;
  - enforcement would be contrary to the terms of the settlement agreement;
  - there was a serious breach by the mediator of ethical standards applicable to the mediator or undisclosed circumstances raising justifiable doubts as to the mediator’s impartiality or independence
The Singapore Convention on Mediation: Reservations

- A State may:
  - exclude settlement agreements entered into by governmental agencies or any person acting on behalf of a governmental agency is a party; or
  - apply the Convention only to the extent agreed to by the parties to the settlement agreement
The Singapore Convention on Mediation: Signatories

Afghanistan
Belarus
Benin
Brunei
Chile
China
Colombia
Congo Democratic Republic of the
Congo
Democratic Republic
of the
Congo
Eswatini
Fiji
Georgia
Grenada
Haiti
Honduras
India
Iran
Israel
Jamaica
Jordan
Kazakhstan
Laos
Malaysia
Maldives
Mauritius
Montenegro
Nigeria
North Macedonia
Palau
Paraguay
Philippines
Qatar
Republic of Korea
Samoa
Saudi Arabia
Serbia
Sierra Leone
Singapore
Sri Lanka
Timor-Leste
Turkey
Uganda
Ukraine
United States of America
Uruguay
Venezuela