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Research on the Integration of the Singapore Mediation Convention with China's Commercial Mediation System

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Abstract: The Singapore Mediation Convention is another milestone document in the development of international commercial dispute resolution mechanisms, providing a unified framework for the enforcement of cross-border settlement agreements. However, the convention's rules differ significantly from China's existing commercial mediation system in terms of the legal nature of settlement agreements and enforcement mechanisms. These differences may lead to challenges in judicial review and an increased risk of fraudulent mediation. This article proposes a transition from a "dual-track system" to a "unified system" as a progressive approach to aligning the convention with China's commercial mediation framework. Drawing on international experience and China's legal practice, the article examines key issues such as the legal effect of mediation agreements, reforms in enforcement procedures, and remedies for third parties. Specific recommendations include improving mediator guidelines, optimizing review mechanisms, and establishing a phased enforcement system. The study aims to provide a feasible plan for China's timely ratification and effective implementation of the convention, thereby promoting the development of international commercial mediation and enhancing the global competitiveness of China's commercial mediation system.

Keywords: Singapore Mediation Convention; Enforcement of Settlement Agreements; International Commercial Mediation; China's Commercial Mediation System

1. Introduction

Since World War II, the acceleration of globalization and the increasing frequency of transnational commercial interactions have led to a growing preference among commercial entities worldwide for alternative dispute resolution (ADR) mechanisms, particularly arbitration, due to its efficiency, confidentiality, and convenience. In international commercial practice, arbitration is often favored over

litigation in resolving disputes. However, as commercial arbitration has become more standardized and specialized, arbitration costs have surged, and procedures have become increasingly complex. Consequently, mediation, another form of ADR, has garnered widespread international attention. Nevertheless, since the enforceability of commercial settlement agreements is often equivalent to that of ordinary contracts, parties frequently harbor doubts regarding the effectiveness of mediation and the enforceability of settlement agreements. These concerns are even more pronounced in international commercial transactions, posing a significant barrier to the use of mediation for dispute resolution.

In contrast, arbitration does not face this issue due to the existence of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (hereinafter referred to as the New York Convention). The New York Convention, which has been ratified by over 160 countries, grants international enforceability to arbitral awards, facilitating their cross-border recognition and execution in most major jurisdictions. It is fair to say that the New York Convention has played a pivotal role in making arbitration more attractive than litigation and in establishing arbitration as the preferred method for resolving international commercial disputes. Inspired by the success of the New York Convention in the field of arbitration, the international community widely recognized the need for a similar international instrument for commercial mediation. This led to the drafting of the United Nations Convention on International Settlement Agreements Resulting from Mediation (hereinafter referred to as the Singapore Convention on Mediation or the Convention) under the auspices of the United Nations Commission on International Trade Law (UNCITRAL). The Convention was opened for signature in Singapore on August 7, 2019, and has since been signed by 58 countries. As the "spiritual successor" of the New York Convention in the field of commercial mediation, the Convention carries high expectations from the international community.

However, significant debates remain among scholars and practitioners worldwide regarding whether and when to ratify the Convention. Only 15 have officially ratified it. China, along with the majority of signatory states, has yet to ratify the Convention. The primary reason for this hesitation is that the Convention mandates the enforcement of all settlement agreements meeting its requirements without allowing reciprocal reservations. Furthermore, it grants such settlement agreements full enforceability and, to a certain extent, res judicata effect, which conflicts with the mediation regimes of many countries. Additionally, the Convention requires signatory states to adjust their domestic legal frameworks to ensure the enforceability of settlement agreements, which poses significant challenges for many countries, including China, in terms of aligning their domestic laws with the Convention within a short timeframe.

Nonetheless, as a signatory to the Convention, China has an obligation to ratify it. Moreover, enhancing and refining the mediation system aligns with China's legal culture, which traditionally emphasizes the resolution of disputes outside the courtroom (Wusong). It also supports China's broader economic policy objectives of improving the business environment and its legal strategy of prioritizing non-litigation dispute resolution mechanisms. Ratifying the Convention would not only stimulate the

development of China's mediation system but also play a crucial role in safeguarding China's extensive overseas economic interests.

Accordingly, this paper examines the alignment between the Singapore Convention and China's commercial mediation system based on a comparative analysis of the Convention's provisions, the UNCITRAL Model Law on International Commercial Mediation (hereinafter referred to as the Model Law), and China's domestic mediation framework. Through this analysis, the paper aims to provide recommendations for improving China's mediation system to facilitate the smooth ratification and implementation of the Convention.

2. Challenges of Ratifying the Singapore Convention on Mediation for China

2.1 Terminological Discrepancies Between the Convention's "Settlement Agreement" and Chinese Legal Practice

The final authoritative Chinese text of the Singapore Convention on Mediation adopts the term "settlement agreement" to refer to an enforceable agreement resulting from mediation. However, in China's legal framework, a settlement agreement primarily refers to an agreement independently reached by parties of equal standing to resolve a dispute, involving the disposition of substantive rights and obligations. According to Article 1 of the Convention, a settlement agreement refers specifically to a written agreement resulting from mediation, in which parties seek to resolve a commercial dispute. Mediation, in turn, is defined as a process in which a neutral third party assists disputing parties in amicably settling their dispute. This definition effectively excludes settlement agreements reached independently by parties without third-party assistance from the scope of the Convention. In contrast, in Chinese legal terminology, agreements resulting from mediation are generally referred to as "mediation agreements" or "mediation decisions" rather than "settlement agreements." For instance, the Civil Procedure Law refers to such agreements as "mediation decisions," while the People's Mediation Law uses the term "mediation agreement."

Recognizing this potential issue, UNCITRAL took deliberate steps to harmonize the use of the terms "settlement" and "mediation" during the revision of the UNCITRAL Model Law on International Commercial Mediation to avoid inconsistencies within the text. However, if China ratifies the Convention, the inconsistency between the terminology in the Convention and China's domestic legal documents may cause confusion among enforcement agencies and parties involved in mediation, thereby affecting the practical application of the Convention in China.

2.2 Impact on Judicial Review and Protection

2.2.1 Direct Enforcement of Settlement Agreements Weakens Judicial Review

The most significant legislative purpose of the Singapore Convention on Mediation is to establish a unified legal framework for the enforcement of settlement agreements, enhancing their cross-border applicability and thereby increasing the attractiveness of mediation for commercial entities. To achieve

this, Article 3 of the Convention explicitly provides that settlement agreements under its scope shall have direct enforceability in contracting states. The first paragraph of Article 3 stipulates that contracting states must enforce settlement agreements directly through their domestic procedures, without requiring a prior judgment or ruling. In other words, the Convention requires and expects enforcement authorities in contracting states to treat settlement agreements as legally binding and directly enforceable documents, rather than merely as contracts enforceable under the general framework of contract law.

Admittedly, from the perspective of international commercial dispute resolution, this provision is relatively reasonable. While a settlement agreement is, in essence, a civil contract, it is based on the voluntary waiver of original contractual rights by both parties. Moreover, parties often make significant compromises and concessions and invest considerable time and effort in the mediation process. Therefore, settlement agreements should indeed receive greater privileges in enforcement compared to ordinary contracts.

However, most jurisdictions, including China, Germany, the United States, and the United Kingdom, currently treat settlement agreements either as ordinary civil contracts or as legal documents that require transformation before they become enforceable. Only a few countries, such as Russia and Spain, recognize settlement agreements as directly enforceable legal documents. As early as the drafting stage of the Convention, some state representatives explicitly opposed the direct recognition of settlement agreements' legal effect, leading to the Convention's current approach of merely enumerating the binding effect of settlement agreements while avoiding a direct definition of their legal nature. Even so, the Convention still grants settlement agreements the effect of precluding parties from initiating new dispute resolution proceedings and requires contracting states to recognize and enforce such agreements. This effectively treats settlement agreements as directly enforceable legal documents with a certain degree of res judicata, which fundamentally differs from China's current legal practice and commercial mediation system.

Moreover, the Convention does not impose any qualifications or procedural requirements on mediators. The only relevant provision is Article 2, which allows a competent authority to refuse enforcement if a mediator has violated applicable professional standards or has lost impartiality and independence. Thus, the Convention permits individuals and various entities to act as mediators, recognizes their facilitated settlement agreements, and grants all international settlement agreements within its scope equal enforceability.

In contrast, China's legal framework currently allows only specific types of mediated settlement agreements to be transformed into enforceable legal documents, while others remain mere civil contracts with no special enforceability. Generally, mediation in China is categorized into three types based on enforceability: litigation (or arbitration) mediation, institutional mediation, and non-institutional mediation. Litigation (or arbitration) mediation refers to mediation conducted within court or arbitration proceedings under judicial or arbitral supervision. Settlement agreements resulting from

this process typically hold the same enforceability as judgments or arbitral awards. Institutional mediation refers to mediation conducted outside litigation but under the supervision of legally established mediation organizations, where the resulting settlement agreement can be judicially confirmed under China's Civil Procedure Law, making it enforceable through compulsory execution. Non-institutional mediation, on the other hand, takes place outside both litigation and institutional frameworks. Settlement agreements reached through this type of mediation generally lack special enforceability and are treated only as ordinary civil contracts, requiring a court ruling to gain enforceability. In other words, China's current mediation system does not recognize non-institutional mediation as a formal mediation process, and such agreements are not granted enforceability distinct from ordinary contracts.

The Convention, however, treats all settlement agreements resulting from mediation conducted outside litigation (or arbitration) as directly enforceable legal documents, granting them the same enforceability as mediation decisions issued through formal institutional mediation. This fundamental difference in legal treatment creates significant challenges for China if it ratifies the Convention.

China's existing legal framework lacks clear regulations on the qualifications and ethical standards of mediators, particularly for non-institutional mediation. In practice, the quality and impartiality of mediation conducted by informal mediation organizations are often questionable. At the same time, commercial parties frequently opt for non-institutional mediation due to its flexibility, efficiency, and confidentiality. Because the Convention does not impose any restrictions on mediator qualifications, its ratification may allow non-institutional mediations to achieve the same enforceability as institutional or even litigation-mediated settlements, thereby necessitating stricter judicial scrutiny of non-institutional mediation agreements.

This results in a fundamental conflict: on the one hand, China currently allows only litigation-based and institutional mediation agreements to be enforced or transformed into enforceable legal documents. However, the Convention mandates direct enforceability for all settlement agreements under its scope, bypassing judicial review procedures under China's current system. Within the Convention's framework, Chinese courts would only be able to conduct a formal review of whether a settlement agreement resulted from mediation, rather than a substantive review of its contents. This significantly reduces the ability of Chinese courts to exercise discretion in reviewing international settlement agreements.

On the other hand, the Convention explicitly provides that if a mediator has seriously violated applicable standards, a party may request the competent authority to refuse enforcement. However, the Convention itself does not define the qualifications or ethical standards for mediators, leaving these issues to be determined by each contracting state. This places an additional regulatory burden on China. Given that China's commercial mediation system is still in its early stages of development, various mediation service providers currently follow different sets of rules regarding mediator qualifications and ethical standards. While these rules share similarities, they lack uniformity and authoritative

recognition. Without a well-established and unified framework for mediation standards and judicial review mechanisms, Chinese courts would struggle to assess the validity and enforceability of international settlement agreements under the Convention.

Table 1: Mediation Agreements Under the Current Legal System and the Singapore Convention

Procedure	Procedure	Legal Nature	Mediation Entity
Mediation Agreements under China's Current Legal System	Litigation (Arbitration) Mediation	Legally enforceable document	Courts, Arbitration Commissions
	Institutional Mediation	Document enforceable after transformation	Mediation institutions established by law
	Non-Institutional Mediation	General contract	Various entities
Mediation Agreements under the Singapore Convention	Non-Litigation (Arbitration) Mediation	Legally enforceable document	Various entities

2.2.2 Impact on Judicial Authorities' Ability to Protect China's Commercial Interests

The Convention requires that settlement agreements within its scope must be international in nature and must result from a mediation process. According to Article 1 of the Convention, the criterion for determining internationality is the place of business of the parties. This provision effectively eliminates the "nationality" of settlement agreements. As a result, parties seeking mediation can conclude their settlement agreement anywhere under the guidance of any mediator, and the resulting settlement agreement will be enforceable in any contracting state. On one hand, this provision relieves enforcement authorities from the responsibility of examining the governing law of settlement agreements, thereby simplifying the cross-border enforcement process. This aligns with the growing trend of "delocalization" in international commercial dispute resolution, reflecting the flexible nature of mediation and the fact that commercial mediation often involves multiple jurisdictions, making it difficult to determine a fixed place of conclusion. However, on the other hand, this provision also means that the Convention does not allow for reciprocal reservations, meaning that all contracting states must enforce any settlement agreement under the Convention, regardless of the governing law, the mediation institution, or the location where the mediation took place. Consequently, ratifying the Convention may provide non-contracting states with a "free-riding" opportunity, thereby weakening the ability of Chinese courts to protect domestic commercial entities and potentially harming China's commercial interests.

The "free-riding" issue arises because without reciprocal reservations, an international settlement agreement may be enforceable in one contracting state where a party's assets are located, while

remaining unenforceable in another state that is not a party to the Convention where the counterparty's assets are located. For example, before China ratifies the Convention, an international settlement agreement could be enforced in China through one of the following two pathways: (1) The mediation is conducted by a Chinese mediation institution, and the settlement agreement is confirmed by a Chinese court, obtaining a judicial ruling as the basis for enforcement. (2) The parties initiate litigation in a Chinese court, which renders a judgment that serves as the basis for enforcement. Under either pathway, the settlement agreement either goes through mediation under a Chinese institution or is subject to a substantive review by Chinese courts, ensuring a higher level of protection for Chinese commercial entities. However, if China ratifies the Convention, international settlement agreements would automatically be enforceable in China, and Chinese courts would only be able to conduct a formal review within the enforcement process. Under the Convention's framework, this review would be limited to procedural aspects rather than a substantive examination. This inevitably reduces the ability of Chinese judicial authorities to protect Chinese commercial interests.

Conversely, if the counterparty's main assets are located in a non-contracting state, and that state does not grant direct enforceability to international settlement agreements, then its courts will have greater discretion and flexibility to review the agreement, thereby better protecting the counterparty's rights. Even if the agreement is ultimately enforced in that state, the costs and efforts incurred by Chinese commercial entities would be significantly higher. That said, China's ratification of the Convention could also enhance its business environment, potentially making foreign commercial entities more willing to engage with Chinese businesses. This could indirectly increase the competitiveness of Chinese commercial entities. However, ensuring the protection of domestic commercial entities should remain a primary concern for China's enforcement authorities after ratifying the Convention.

The issue of fraudulent mediation also warrants serious attention. Fraudulent mediation refers to the abuse of the mediation process by parties who collude to fabricate legal relationships or legal facts, thereby harming third-party rights, disrupting judicial fairness, and interfering with litigation procedures. and establish relaxed review procedures to facilitate the enforcement of settlement agreements. This pursuit of efficiency could easily result in third-party rights being compromised.

Additionally, since settlement agreements under the Convention are inherently international, multiple foreign elements such as the place of business of the parties and the location of mediation make it inherently difficult for courts to ascertain the facts of the case and the applicable law. The complexity of legal determinations is further exacerbated in cases of fraudulent mediation, where the parties involved deliberately conceal the true nature of the dispute. Under the guiding principle of "acting swiftly," courts may face significant obstacles in effectively reviewing such agreements.

Moreover, due to the confidential nature of mediation, third parties have no means of knowing that the mediation has taken place, let alone the specific terms of the settlement agreement. Given the international nature of settlement agreements, a third party's habitual residence and the location of

relevant assets are often in different jurisdictions, leading to situations where settlement agreements are fully enforced before third parties even realize that their rights have been harmed.

Under the Convention framework, third parties also face significant obstacles in seeking legal remedies. First, both Chinese law and the Convention lack protective mechanisms for third-party relief. Under China's legal framework, third-party remedies in enforcement proceedings primarily take the form of third-party objections to enforcement and third-party revocation lawsuits. However, as of now, neither of these mechanisms can be invoked by third parties against settlement agreements. The Convention, for its part, only provides relief procedures for parties to the settlement agreement, with no provisions whatsoever addressing the rights of third parties.

Additionally, under the Convention framework, the party seeking enforcement may not have assets in the jurisdiction where enforcement is sought. If a third party wishes to pursue recovery enforcement against the applicant's assets, the process could involve cross-border recognition and enforcement of judgments. Given that court judgments carry significantly greater public authority than settlement agreements, the recognition and enforcement of judgments are far more challenging than those of settlement agreements. This process often requires judicial cooperation from foreign courts and involves a complex network of bilateral and multilateral treaties, reciprocal enforcement reservations, and procedural hurdles, making it extremely difficult for third parties to seek effective remedies.

2.2.3 Exacerbate the Fraudulent Litigation

The so-called fraudulent mediation refers to a situation in civil litigation where parties abuse the mediation process by colluding, fabricating civil legal relationships or legal facts, and thereby harming the legitimate rights and interests of third parties outside the case, undermining judicial fairness, and interfering with litigation procedures. As previously discussed, once China ratifies the Convention, the ability and effectiveness of its competent authorities to review settlement agreements will be significantly affected, which in turn may increase the likelihood of fraudulent mediation and exacerbate its negative consequences.

Specifically, from an analysis of the legislative intent behind the Convention, it is evident that the Convention expects competent authorities in contracting states to act swiftly and establish relaxed review procedures to facilitate the enforcement of settlement agreements. This emphasis on efficiency can easily result in the rights and interests of third parties being compromised. Furthermore, since settlement agreements under the Convention are inherently international, they often involve foreign elements such as the place of business of the parties or the location of mediation, making it inherently difficult for courts to ascertain the facts of the case and determine the governing law. This difficulty is exacerbated in cases of fraudulent mediation, where the parties involved deliberately conceal the true nature of the dispute. Under the guiding principle of "acting swiftly", courts would face substantial challenges in effectively reviewing such settlement agreements.

Additionally, due to the confidential nature of mediation, third parties whose rights have been infringed have no means of knowing that the mediation has taken place, let alone the specific terms of

the settlement agreement. Given the international nature of settlement agreements, a third party's habitual residence and the location of relevant assets are often in different jurisdictions, and in many real-world cases, settlement agreements are fully enforced before the third party even realizes their rights have been harmed.

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2.3 The Enforcement Mechanism is Incompatible with China's Existing System

The differences between the Convention and China's mediation system extend beyond just the definition of settlement agreements, which determines the scope of application. A more fundamental divergence lies in the enforcement mechanism, which governs how settlement agreements are executed. In China, both the People's Mediation Law and the Civil Procedure Law explicitly stipulate that courts can only initiate the confirmation procedure to review settlement agreements if both parties jointly apply for it. In contrast, the Convention does not explicitly state whether initiating the enforcement procedure requires the joint application of both parties. However, Article 5 of the Convention provides that one party may request the competent authority to refuse enforcement under certain conditions. This suggests that the Convention allows enforcement procedures to be initiated upon the request of a single party; otherwise, if one party's objection could prevent the initiation of enforcement, the provision allowing a party to request refusal of enforcement would be meaningless.

This difference largely stems from the fact that the Convention and China's system place the review of settlement agreements in different procedural stages. The Convention integrates the review of settlement agreements into the enforcement process. Since enforcement procedures are inherently triggered only when one party fails to perform, requiring both parties to jointly apply for enforcement would be neither feasible nor necessary.

In contrast, China places the review of settlement agreements within judicial proceedings or a separate confirmation procedure, depending on whether the mediation was conducted by an institution or another entity. Under China's system, this review process functions as an optional "supplementary procedure" available to mediation participants. A settlement agreement that has not undergone such a review cannot be directly enforced. When parties enter into a settlement agreement, they are generally aware that mediation agreements do not carry enforceability by default, and this understanding of the non-binding nature of such agreements is one of the reasons why parties are willing to resolve disputes through mediation in the first place.

For this reason, China's courts emphasize the voluntary nature of the confirmation process and place significant importance on protecting the autonomy of the parties involved in mediation. Under China's existing legal framework, a settlement agreement can only be enforced after undergoing a confirmation procedure in which both parties participate. If China decides to ratify the Convention, this would mean that settlement agreements in China would no longer require a confirmation or judicial review process as a safeguard, allowing one party to directly apply for enforcement. If the other party is unaware of this procedural change, their rights and interests could be jeopardized.

2.4 The Ratification of the Convention May Increase the Burden on China's Judiciary

Approving the Convention could lead to a shift of related cases to China, causing a surge in enforcement cases and placing additional pressure on China's enforcement agencies. Due to institutional and systemic challenges, "difficulties in enforcement" have long been a persistent issue in China, re-emerging despite continuous efforts to address them. At the same time, with the acceleration of globalization, China has actively participated in international trade and investment, attracting foreign capital, and as a result, a large number of "international assets" exist within its jurisdiction. These assets could potentially become targets for enforcement under international settlement agreements arising from commercial transactions.

Since contracting states to the Convention are obligated to enforce all settlement agreements under its scope, regardless of the nationality of the parties, China's ratification would mean that numerous settlement agreements not governed by Chinese law and not concluded in China could still be submitted for enforcement in Chinese courts simply because the enforcement target is located in China. This would require Chinese courts to invest significant time and effort in determining the facts of these cases and the applicable law. Furthermore, because the Convention grants settlement agreements direct enforceability and integrates their review into the enforcement process, many agreements that should have been reviewed abroad may instead be submitted for review in China, further intensifying the burden on Chinese enforcement agencies.

Additionally, since the enforcement of settlement agreements under the Convention does not require any connection between the agreement itself and the enforcing state, Chinese courts may encounter a large number of settlement agreements whose validity must be assessed under foreign laws. This presents significant challenges in terms of ascertaining and applying foreign law. If China attempts

to ease the judicial burden by reducing the scope or depth of review, this would inevitably weaken the judiciary's ability to scrutinize settlement agreements, ultimately diminishing the level of protection provided to Chinese commercial entities. Therefore, after ratifying the Convention, China must develop effective measures to address this contradiction.

3. Reform Directions for China's Commercial Mediation System

3.1 Defining the Semantic and Legal Nature of Settlement Agreements and Clarifying Grounds for Invalidity

First, there is a terminological discrepancy between the Convention and China's existing legal framework regarding the terminology for enforceable agreements under the Convention, which may lead to semantic confusion. As previously mentioned, the official Chinese text of the Convention adopts the term "settlement agreement". However, in Chinese commercial practice, a settlement agreement typically refers to an agreement reached independently by both parties without the involvement of a third-party mediator. By contrast, under the legislative intent of the Convention, an enforceable agreement resulting from mediation is commonly referred to in China as a "mediation decision" or "mediation agreement".

To avoid ambiguities in interpretation, China must resolve this terminological inconsistency upon ratification of the Convention to prevent confusion among enforcement authorities and parties involved, which could hinder the practical application of the Convention. Clearly, it would not be feasible for China to revise all domestic legal documents to replace their terminology with "settlement agreement", as this would create greater uncertainty and confusion.

Therefore, China should adopt a two-pronged approach: First, upon ratifying the Convention, China should issue relevant judicial interpretations to standardize the terminology used in the Convention and explain the distinction between the term "settlement agreement" in the Convention and its equivalent terms in China's legal framework. This will ensure that China's judiciary can implement the Convention without misinterpretation. Second, China should conduct awareness campaigns regarding the Convention or consider a "party consent" reservation to ensure that commercial entities seeking mediation are not misled by the semantic inconsistency.

Additionally, the Convention grants settlement agreements direct enforceability, treating them as directly enforceable legal instruments, whereas China currently treats them as either transformable into enforceable documents or merely as contracts. Therefore, after ratifying the Convention, China must define the legal status of settlement agreements within its enforcement framework to align domestic law with the Convention. Given that settlement agreements under the Convention are inherently international, they can be categorized into "foreign-related settlement agreements" and "other settlement agreements" for discussion.

To ensure alignment with the Convention, China must at least allow foreign-related settlement agreements to be directly enforced. This would require amending the enforcement provisions of the

Civil Procedure Law to explicitly recognize the enforceability of foreign-related settlement agreements as legally binding documents within China's enforcement framework. However, for other settlement agreements that do not meet the Convention's criteria for internationality, it would not be advisable to drastically alter China's existing legal structure—at least not immediately upon ratification—to avoid disruption caused by sudden systemic changes.

Moreover, under the Convention, grounds for revocation do not constitute valid reasons for refusal of enforcement by the enforcing authority. Given the non-national nature of settlement agreements under the Convention, Chinese courts would not have jurisdiction to revoke an international settlement agreement under China's Contract Law. However, as enforcement authorities, Chinese courts must assess the contractual validity of settlement agreements to determine whether they qualify for enforcement. Therefore, China must establish a clear legal framework specifying whether a revocable settlement agreement under Chinese Contract Law constitutes a defective agreement under the Convention.

It would be reasonable for China to explicitly classify revocable agreements as falling within the Convention's category of agreements with defects in validity, meaning that Chinese courts should refuse enforcement in such cases, regardless of whether the parties formally seek revocation. Under Chinese law, contracts may be revoked under five circumstances: material misunderstanding, significant unfairness, fraud, coercion, or exploitation of a party in distress. Since mediation involves an independent third-party mediator, the likelihood of these situations arising in a settlement agreement is relatively low. However, if any of these conditions are met, it would indicate that the mediation process was ineffective or had minimal influence on the agreement's outcome. Accordingly, settlement agreements formed under such defective conditions should not enjoy greater legal status than ordinary contracts and should therefore be deemed unenforceable.

3.2 Improving the Legal Framework for Mediation and Enhancing the Quality of Mediation Services

As previously discussed, the Convention grants enforceability to settlement agreements resulting from "non-institutional mediation." This means that once China ratifies the Convention, it must at least recognize the validity of foreign-related non-institutional mediation. Moreover, the Convention provides that a party may request the competent authority to refuse enforcement of a settlement agreement if the mediator has seriously violated applicable professional standards. This necessitates that contracting states maintain a well-developed domestic mediation system.

At present, China has made significant progress in developing its mediation-related legal framework, particularly in the litigation mediation and people's mediation systems, which have begun to take shape. However, China still lacks clear and comprehensive regulations regarding mediation standards, mediator qualifications, and other fundamental aspects of mediation governance. If China seeks to align its mediation system with the Convention, it must further refine its mediation-related legal framework and enhance the overall quality of mediation services.

First, China should establish a professional training and certification system for mediators. This could be modeled after the qualification requirements for lawyers and notaries, requiring mediators to hold legal practice certifications, possess relevant professional knowledge, and accumulate a certain number of years of work experience. This would ensure a higher level of professionalism among mediators.

Second, China should develop a unified nationwide "Mediator Code of Conduct" to serve as a standard reference for Chinese courts. Based on Article 5 of the Convention and the general principles of mediation, this code should include at a minimum: the principle of independence, the principle of impartiality, the mediator's duty of disclosure, and the principle of confidentiality.

Third, to better integrate with the Convention, China should, after establishing a sound mediation system, grant direct enforceability to all settlement agreements resulting from mediations conducted by qualified mediators within China. This is not only a necessary step for aligning with the Convention but also reflects the global trend of enhancing commercial dispute resolution mechanisms.

3.3 Establishing a Relief Mechanism for the Enforcement of Foreign-Related Mediation Through Public Notice and Objection Procedures

As previously discussed, ratifying the Singapore Convention on Mediation will significantly weaken the judiciary's ability to review and protect parties' interests, potentially exacerbating the risks of fraudulent mediation, increasing the difficulty of judicial review, and making it harder for third parties to seek relief. Therefore, before ratifying the Convention, China must implement institutional safeguards to mitigate these challenges. The following measures could help address these issues.

First, while maintaining the "expeditious enforcement" principle, China should strengthen the review of international settlement agreements to the greatest extent possible. Ideally, this could be achieved by incorporating a rigorous review mechanism into the enforcement process to prevent the enforcement of settlement agreements from harming parties or third parties. Second, China could introduce a public notice requirement before enforcing settlement agreements. This would involve publicizing the enforcement details for a reasonable period, thereby allowing third parties to become aware of enforcement actions and seek relief if necessary. Third, China should amend the Civil Procedure Law or introduce separate legislation to establish procedural remedies for third parties affected by the enforcement of settlement agreements. This could include third-party objections to enforcement and third-party revocation lawsuits, ensuring that once a third party becomes aware that their legitimate rights have been harmed, they have a formal legal pathway to seek relief. Fourth, China could require applicants for enforcement to provide sufficient guarantees within China, ensuring that there are adequate assets available for enforcement in case of disputes. If an applicant fails to provide such a guarantee, the public notice period could be extended accordingly to address challenges related to recovery enforcement.

3.4 Gradually Establishing an Enforcement Mechanism for Foreign Settlement Agreements

The Convention is a non-self-executing treaty, meaning that each contracting state must implement it through its domestic procedural rules and in accordance with the conditions set out in the Convention. The Convention does not provide an enforcement procedure, so each contracting state must incorporate its provisions into its legal framework before it can be effectively applied. As previously discussed, there are significant inconsistencies between the Convention and China's existing system, as well as unique challenges stemming from China's legal and institutional framework. To fully implement the Convention and allow it to function effectively, China's current system will require substantial adjustments.

Against this backdrop, there are two possible approaches for reforming China's foreign-related mediation system at the macro-level: the "dual-track" model and the "unified" model.The dual-track model would establish a special enforcement mechanism for international commercial settlement agreements, separate from the general enforcement procedure for domestic settlement agreements. This approach would allow the two enforcement systems to operate in parallel, thereby minimizing the impact of the Convention on China's existing system. By contrast, the unified model would integrate the enforcement of both international and domestic commercial settlement agreements into a single procedural framework, ensuring that both types of agreements are reviewed and enforced through the same process.

Since the dual-track model mirrors China's approach to the New York Convention, an analysis of why China adopted the dual-track model for international arbitration awards and how the New York Convention has been applied in China may help predict the outcomes and potential impacts of adopting either approach for the Singapore Convention on Mediation. The primary reason China ultimately chose the dual-track model for the New York Convention was a fundamental conflict between China's position on ad hoc arbitration and the Convention's requirements. The New York Convention does not allow reservations regarding the recognition of ad hoc arbitration, meaning that ratifying the Convention required China to recognize the validity of arbitration awards issued by non-permanent arbitration institutions. Given that fully recognizing ad hoc arbitration would have significantly disrupted China's existing legal framework, and a comprehensive acceptance of ad hoc arbitration was not feasible at the time, China adopted a dual-track approach. Under this system, international arbitration awards were enforced in accordance with the New York Convention, while domestic arbitration awards continued to follow China's original enforcement rules.

A similar conflict exists between the Singapore Convention on Mediation and China's mediation system regarding the recognition of non-institutional mediation. This raises the question of whether China should adopt the same dual-track approach for the Singapore Convention. It must be acknowledged that immediately adopting a unified model would pose significant challenges. Due to the mismatch between the Convention and China's existing mediation system, ratifying the Convention

could lead to an increase in fraudulent mediation cases and an overwhelming number of enforcement applications ("enforcement explosion"). Given that China's mediator standards are not yet well-established, and the development of mediation institutions and mediation centers remains relatively weak, it would be unrealistic to undertake a major overhaul of China's mediation system to align with the Convention at this stage. Furthermore, China's existing mediation framework differs significantly from the standards outlined in the Convention, and adopting a dual-track model would be a practical way to alleviate judicial burdens, mitigate fraudulent mediation risks, and simplify the implementation of the Convention. Many early adopters of the Convention, including Singapore, have also implemented dual-track legislative models.

However, the dual-track model is inherently a transitional or compromise measure and should not be considered a permanent solution. On the one hand, this "temporary solution" does not resolve the fundamental conflict between the Convention and China's legal system. While it minimizes disruptions to China's existing framework and reduces the negative impact of the Convention, it also creates a disconnect between China's foreign-related and domestic mediation systems. In practice, this grants foreign arbitral awards or foreign-related settlement agreements preferential treatment over domestic ones, which could encourage parties to artificially create foreign-related elements to bypass procedural requirements. This undermines the authority of China's legal system. On the other hand, the need for China to rely on a dual-track system is gradually diminishing. In 2017, the Supreme People's Court issued the Opinion on the Pilot Program for Lawyer-Led Mediation (司发通〔2017〕105 号), which authorized lawyers to act as mediators in pilot regions. This suggests that as China's commercial mediation system continues to develop and international trade expands, China is gradually moving toward recognizing non-institutional mediation.

Adopting a unified model would help prevent procedural evasion, enhance the attractiveness of mediation as a dispute resolution mechanism, and facilitate the international circulation of settlement agreements, which aligns with the Convention's objectives and legislative intent. Furthermore, establishing a comprehensive mediator code of conduct is an essential step in the development of China's mediation system. Ratifying the Convention could serve as a catalyst for improving China's mediation standards, and given China's ongoing economic and legal reforms, these challenges are not insurmountable.

In summary, immediately adopting a unified legislative approach is impractical at this stage, while relying indefinitely on a dual-track system is also not a sustainable solution. The dual-track approach is a temporary measure, primarily suited for countries with underdeveloped mediation frameworks or lower levels of internationalization in mediation practices. Therefore, China should initially adopt the dual-track model after ratifying the Convention while simultaneously strengthening its mediation system, improving mediation legislation, and enhancing the development of mediation institutions. At an appropriate time, China should transition to a unified legislative model to fully integrate its mediation system with the Convention's framework.

4. Conclusion

The Singapore Convention on Mediation provides a framework for the cross-border enforcement of international settlement agreements, significantly enhancing the efficiency and accessibility of international commercial mediation. It represents a major milestone in international commercial dispute resolution, following in the footsteps of the New York Convention. The Convention is of great significance in promoting the development of international commercial mediation, increasing the cross-border circulation of settlement agreements, and facilitating the resolution of international commercial disputes.

Ratifying the Singapore Convention on Mediation holds substantial importance for China. First, the Convention aligns with China's legal philosophy, which emphasizes mediation and negotiated dispute resolution. Ratification would compel China to improve its legal framework, enhance its participation in the global supply of mediation services, and promote the development of China's commercial mediation system. Second, ratifying the Convention would help optimize China's business environment, enhance the global reputation of Chinese commercial entities, and further stimulate foreign trade. Third, many signatories of the Convention are also key partners in China's Belt and Road Initiative (BRI). Ratification would strengthen China's trade and economic cooperation with these countries, advancing the BRI's long-term strategic goals.

China should continue improving its commercial mediation system, strengthening mediation legislation, and establishing high-level international mediation centers. Proper institutional integration would allow China to fully leverage the Convention's benefits, contributing to the advancement of global mediation systems and showcasing China's leadership in dispute resolution. Currently, the dominant influence in international commercial mediation remains in the hands of developed countries, with institutions such as the International Chamber of Commerce (ICC) and the U.S.-based Judicial Arbitration and Mediation Services (JAMS) playing a leading role in shaping global mediation standards.

To fully harness the Convention's potential and enhance China's influence in international commercial mediation, China must not limit itself to passively adapting to existing international rules. Instead, it should actively engage in shaping global discourse in commercial mediation, advocating for China's mediation models and standards on the international stage. The Convention should not be seen merely as a tool for adapting to international mediation rules, but rather as an opportunity for China to establish its leadership in global mediation governance. China should take proactive steps to shape international mediation norms, promote the establishment of China-led mediation centers and standards, and increase its influence in the global commercial dispute resolution system.

Finally, as only a limited number of countries have ratified the Convention so far, there remains a lack of extensive legislative and judicial practice in its application worldwide. This limits the scope of comparative legal and empirical research in this paper. As a result, this study draws from China's experience with the New York Convention to explore a development path suited to China's national

conditions. As international commercial mediation continues to evolve and more countries ratify the Convention, legal and judicial practice will gradually expand, providing richer materials for future research.

The road ahead is long, but progress is on the horizon.

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Author Contributions

Kaiheng Hu: Writing, Original draft, Conceptualization, Methodology. Qifan Jiang: Conceptualization, Writing–review & editing.

Availability of Data and Materials

The data on the Singapore Convention used in this paper are all sourced from the official website of the United Nations Commission on International Trade Law and are available through the following link.

https://uncitral.un.org/en/texts/mediation/conventions/international_settlement_agreements/status

Conflicts of Interest

The authors declare that they have no conflicts of interest to report regarding the present study.

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