

EFFECTIVENESS OF COMMERCIAL MEDIATION IN RESOLUTION OF TRANSNATIONAL BUSINESS DISPUTES: A COMPARATIVE ANALYSIS OF LEGAL FRAMEWORKS AND PRACTICES IN THE ASEAN REGION

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Abstract

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This study comprehensively examines the role and effectiveness of mediation as an alternative dispute resolution mechanism in the context of cross-border business in the ASEAN region. Using a qualitative approach using comparative case studies and legal document analysis, the study explores the legal framework of international commercial mediation, its implementation practices, and the challenges and opportunities in harmonizing mediation systems across ASEAN countries. The findings indicate that while mediation has significant advantages over litigation and arbitration in terms of cost efficiency, speed of resolution, and preservation of business relationships, its implementation in the ASEAN region faces structural barriers in the form of disparities in national legal frameworks, differences in legal cultures, and limited professional mediation infrastructure. Case studies from Singapore, Malaysia, Thailand, Indonesia, and Vietnam demonstrate substantial variation in the level of development of mediation institutions and the adoption of international standards. The study finds that the success of mediation depends heavily on factors such as the quality of the mediator, the commitment of the parties, the support of a strong legal framework, and the level of understanding of the advantages of mediation among business stakeholders. Progressive harmonization through the Singapore Convention on Mediation and other regional initiatives demonstrates positive momentum towards a more integrated mediation system in ASEAN. The practical implications of this research emphasize the need to strengthen the capacity of professional mediators, improve the legal literacy of business actors, legislative reform to support the implementation of mediation agreements, and develop more effective mechanisms for enforcing mediation outcomes across jurisdictions.

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INTRODUCTION

Economic globalization and trade liberalization have resulted in an exponential increase in the volume and complexity of cross-border business transactions. The ASEAN region, as one of the world's most dynamic economic blocs with intra-regional trade reaching over US\$600 billion annually, faces significant challenges in providing effective, efficient, and predictable dispute resolution mechanisms to support regional economic integration. Cross-border business disputes, arising from various types of transactions such as international trade, foreign direct investment, technological cooperation, and strategic alliances, require resolution mechanisms that are not only technically competent but also sensitive to differences in legal systems, business cultures, and national economic interests.

Conventional judicial systems are often considered inadequate for handling international business disputes due to various limitations. Litigation tends to be time-consuming, expensive, adversarial in nature, which can damage long-term business relationships, and results in decisions that may be difficult to enforce in foreign jurisdictions due to the complexity of international law regarding the recognition and enforcement of foreign court judgments. International arbitration, although it has developed into a primary mechanism for resolving cross-border commercial disputes with the support of the 1958 New York Convention, also has limitations in terms of increasing costs, a tendency for lengthy proceedings, and its inherent adversarial nature (Apriadi et al., 2025).

In this context, international commercial mediation has emerged as an increasingly attractive alternative. Mediation offers a fundamentally different approach from litigation and arbitration: it is collaborative rather than adversarial, flexible rather than procedurally rigid, and oriented toward mutualistic rather than win-lose resolution. Mediation allows the parties to retain control over the process and outcome of their dispute resolution, with the assistance of a neutral third party who facilitates communication and negotiation but does not have the authority to impose a solution. These advantages make mediation particularly well-suited to the international business context, where the preservation of long-term business relationships and flexibility in finding creative solutions are highly valued.

The ASEAN region presents a unique and challenging context for the development of international commercial mediation. The diversity of legal systems across ASEAN countries from common law systems in Singapore, Malaysia, and Brunei, to civil law systems in Vietnam, Thailand, and Indonesia, to mixed legal systems in the Philippines and Myanmar creates complexities in harmonizing legal frameworks for mediation (Sopnar Maru Hutagalung, 2022). Differences in levels of economic development, institutional capacity, and legal culture also influence how mediation is understood and practiced across ASEAN countries. While Singapore has developed a world-class mediation infrastructure and positioned itself as an international mediation hub, other ASEAN countries are at varying stages of development in the adoption and implementation of commercial mediation.

A significant development occurred with the signing of the United Nations Convention on International Settlement Agreements Resulting from Mediation, known as the Singapore Convention on Mediation, in 2019 (Ruslijanto et al., 2022). This

Convention, which entered into force in September 2020, provides an international framework for the recognition and enforcement of settlement agreements resulting from mediation, analogous to what the New York Convention does for arbitral awards. Several ASEAN countries, including Singapore, Malaysia, and Brunei, have ratified this convention, while others are in the deliberation or preparation stages. The Singapore Convention represents a significant milestone in the evolution of international commercial mediation and has the potential to significantly enhance the role of mediation in the resolution of cross-border business disputes in ASEAN.

However, many important questions remain to be answered about how mediation can be effectively integrated into the business dispute resolution ecosystem in the ASEAN region. These questions include: What are the legal and institutional frameworks for mediation in various ASEAN countries? What factors encourage or hinder the adoption of mediation by businesses? How has mediation been used in practice to resolve specific cross-border business disputes in the ASEAN region? What are the main challenges in implementing interjurisdictional mediation agreements? And how can regional harmonization and cooperation strengthen the role of mediation in supporting ASEAN economic integration?

This research aims to answer these questions through a comprehensive analysis of the legal framework, institutions, and practices of commercial mediation in selected ASEAN countries. Through case studies, legal document analysis, and a synthesis of academic literature and professional practice, this research seeks to provide a deeper understanding of the actual and potential role of mediation in the transnational business dispute resolution ecosystem in the ASEAN region, as well as formulate recommendations to strengthen the effectiveness of mediation as a supporting instrument for regional economic integration.

LITERATURE REVIEW

Mediation Theory and Concept in International Commercial Context

Mediation, as a form of alternative dispute resolution, has long historical roots in various cultural and legal traditions. In the modern context, mediation is defined as a process in which a neutral third party assists disputing parties to reach a voluntary, agreed-upon resolution by facilitating communication, identifying interests, and exploring settlement options (Moore, 2014). The fundamental characteristics of mediation that distinguish it from other dispute resolution mechanisms are its voluntary, non-binding nature until an agreement is reached, and its facilitative nature, with the mediator having no authority to impose a solution.

(Siman-Tov et al., 2007) identified several different mediation models in practice, ranging from a purely facilitative model in which the mediator simply facilitates communication without providing evaluation or advice, to an evaluative model in which the mediator assesses the strengths and weaknesses of the parties' positions, to a transformative model that focuses on empowering the parties and mutual recognition. In the context of international commercial mediation, the most common approach is a combination of the facilitative and evaluative models, in which experienced mediators use their substantive expertise to help the parties understand the legal and commercial realities of their positions while still facilitating collaborative negotiations.

(Alexander, 2009) in his analysis of the comparative advantages of mediation in

the international business context identified several key added values: first, significant cost and time efficiencies compared to litigation and arbitration; second, procedural flexibility that allows for adjustments to the specific needs of the dispute and the cultural preferences of the parties; third, the ability to find creative solutions that are not limited to the legal remedies available in adjudication; fourth, preservation and even strengthening of business relationships through a collaborative process; and fifth, confidentiality that protects the reputations and sensitive information of the parties.

Empirical research supports these claims. A 2018 study by the Centre for Effective Dispute Resolution (CEDR) of more than 100 international commercial mediation cases showed a successful resolution rate of 89 percent, with an average resolution time of less than three months and costs a fraction of the costs of arbitration or litigation for similar disputes (Hasudungan Sinaga et al., 2024). Similarly, a 2020 survey by the International Mediation Institute showed that 92 percent of respondents who had used mediation in an international commercial dispute expressed satisfaction with the process and outcome, with 87 percent stating they would use mediation again in the future.

International Legal Framework for Commercial Mediation

The development of an international legal framework for commercial mediation has lagged far behind that for international arbitration. While the 1958 New York Convention has provided a solid foundation for the recognition and enforcement of international arbitral awards for over six decades, there was no equivalent international instrument for mediation until the adoption of the Singapore Convention in 2019. This lack of an international framework creates significant uncertainty about the enforcement of settlement agreements resulting from mediation across national jurisdictions.

The UNCITRAL Model Law on International Commercial Mediation, adopted in 2018, provides a comprehensive legislative template for countries to develop their domestic legal frameworks for mediation. It covers fundamental principles such as the definition of mediation, confidentiality obligations, recognition of agreements to mediate, suspension of court or arbitration proceedings during mediation, and enforcement of settlement agreements. (Schnabel, 2022) analyzes that the UNCITRAL Model Law represents an international consensus on best practices in mediation regulation and has influenced legislative reform in many jurisdictions.

The Singapore Convention on Mediation, officially known as the United Nations Convention on International Settlement Agreements Resulting from Mediation, represents the most significant breakthrough in the international legal framework for mediation. It allows parties to invoke settlement agreements resulting from mediation as a basis for obtaining relief from a court or competent authority in a signatory country, or to demonstrate that the matter has been resolved (Ferz & Tsvina, 2023). The Convention applies to international settlement agreements resulting from commercial mediation, with some exceptions for consumer and family disputes and agreements that have become enforceable court decisions or arbitral awards.

(Haacke, 2013) argues that the Singapore Convention fills a critical gap in the international legal architecture for dispute resolution by providing legal certainty and ease of enforcement for mediation agreements, which could significantly enhance mediation's appeal as a mechanism for resolving international commercial disputes. However, several legal scholars have identified potential challenges in implementing

the convention, including the interpretation of key terms, coordination with domestic legal systems, and the need for efficient implementation procedures (Chong, 2021).

Mediation in the ASEAN Context: Regional and National Frameworks

The ASEAN region presents a complex and diverse landscape for commercial mediation. The ASEAN Economic Community Blueprint 2025 recognizes the importance of effective dispute resolution mechanisms to support regional economic integration and calls for the development of alternative dispute resolution mechanisms, including mediation. However, there is no binding regional framework or centralized mediation mechanism for intra-ASEAN commercial disputes.

Regional initiatives such as the ASEAN Mediation Centre Network and collaboration between national mediation institutions in various ASEAN countries demonstrate efforts to enhance cooperation and harmonization in the field of mediation. (Leong et al., 2008) in his analysis of mediation developments in ASEAN identified that despite the lack of uniformity in the legal and institutional framework, there is a trend of progressive convergence towards the adoption of international standards, particularly influenced by the UNCITRAL Model Law and best practices from leading jurisdictions such as Singapore.

Singapore has positioned itself as a regional leader in international commercial mediation. Established in 2014, the Singapore International Mediation Centre has grown into one of the world's leading mediation institutions, handling high-value disputes from multiple jurisdictions. The Singapore International Mediation Institute provides an accreditation scheme for mediators and sets high standards for mediation practice. Singapore's legal framework for mediation, strengthened by the Mediation Act 2017, provides a comprehensive and progressive foundation aligned with international best practices (Poon et al., 2012).

Malaysia has also made significant progress in developing commercial mediation. The Mediation Act 2012 provides a comprehensive legislative framework for mediation, including provisions on confidentiality, enforcement of settlement agreements, and mediator accreditation. The Kuala Lumpur Regional Centre for Arbitration has expanded its services to include mediation and has handled a number of international commercial mediation cases. Research by (Hamid & Laeba, 2017) indicates that the adoption of mediation in Malaysia still faces challenges in terms of awareness and acceptance by the legal and business communities, despite an upward trend in recent years.

Thailand has integrated mediation into its judicial system through the establishment of a Court Mediation Center that handles various types of disputes, including commercial disputes. The Thai Arbitration Institute also provides commercial mediation services. However, (Nottage & Thanitcul, 2017) notes that international commercial mediation in Thailand remains relatively underdeveloped compared to arbitration, with limited infrastructure and professional capacity.

Indonesia, as ASEAN's largest economy, has a legal framework for mediation that primarily focuses on mediation integrated with court proceedings. The Supreme Court Regulation on Mediation Procedures in Courts mandates mediation efforts before civil cases proceed to trial. However, stand-alone international commercial mediation remains relatively underdeveloped in Indonesia. Research by Nurnaningsih (2019) identified key challenges as a lack of awareness of mediation among business actors, a

limited supply of qualified mediators with international expertise, and an unclear legal framework regarding the implementation of international mediation agreements (Prastyanti, 2025).

Factors Influencing the Effectiveness of Mediation

The literature on mediation effectiveness identifies various factors that influence the success of the mediation process in producing a satisfactory resolution. (Wall & Dunne, 2012) in their comprehensive review of mediation research categorize these factors into mediator characteristics, mediator behavior, characteristics of the parties and the dispute, and the institutional and legal context.

The quality and skills of the mediator have been identified as the most critical factors for successful mediation. Effective mediators require not only procedural skills in managing the mediation process but also a substantive understanding of the disputed area, credibility with the parties, strong interpersonal skills, and cultural sensitivity in an international context (Mnookin et al., 2004). In the context of international commercial mediation, expertise in international commercial law and experience in cross-border business transactions are highly valued.

The parties' commitment to the mediation process is another critical factor. Research shows that mediation is most effective when the parties enter the process with a good intention to find a resolution, an openness to compromise, and a realistic understanding of their alternatives if mediation fails (Brett et al., 2007). The direct involvement of key decision-makers in mediation, rather than just legal counsel, also contributes significantly to success rates.

The characteristics of the dispute also influence the suitability and effectiveness of mediation. Mediation tends to be most effective for disputes involving ongoing relationships, multidimensional disputes with complex and interdependent interests, and situations where creative solutions that go beyond formal legal remedies can add value (Boulle & Nesic, n.d.). Conversely, disputes involving fundamental legal principles or where one party seeks legal precedent may be less suitable for mediation.

A supportive legal and institutional framework for mediation is crucial to creating a conducive ecosystem. This includes legislation that recognizes and supports the mediation process, mechanisms for enforcing settlement agreements, protecting the confidentiality of mediation communications, and an institutional infrastructure that provides access to qualified mediators and professional mediation facilities (Sourdin, 2015).

Cross-Cultural Dimensions in International Mediation

International commercial mediation, particularly in a culturally diverse region such as ASEAN, requires sensitivity to cultural differences in communication, negotiation, and dispute resolution. The literature on cross-cultural mediation identifies various cultural dimensions that can influence the mediation process and outcomes, including individualistic versus collectivistic orientations, high versus low communication contexts, time orientation, attitudes toward authority, and preferences for relationship-preservative versus outcome-oriented resolutions (LeBaron, 2003).

The differing legal cultures of ASEAN countries with their distinct colonial legacies, diverse customary legal traditions, and varying degrees of westernization create additional complexities in international commercial mediation. Parties from

common law jurisdictions may have different expectations and approaches to mediation than those from civil law jurisdictions or mixed legal systems (Menkel-Meadow, 2017).

(Xavier & J., 2018) in his research on mediation in Asia identified that the “Asian values” approach to mediation, which emphasizes harmony, consensual resolution, preservation of face, and respect for hierarchy, differs significantly from the more individualistic and rights-based Western approach. However, he also cautioned against excessive stereotyping, noting that there is substantial variation in mediation approaches even within the Asian region, and that skilled international mediators are able to manage cultural differences effectively through procedural flexibility and interpersonal sensitivity.

RESEARCH METHODS

This research uses a qualitative approach with a comparative case study method and legal document analysis. The research design was chosen to allow for an in-depth exploration of the complexities of implementing commercial mediation across various national contexts within the ASEAN region while also facilitating systematic comparisons to identify patterns, variations, and factors influencing mediation effectiveness.

Data collection was conducted through several sources. First, a legal document analysis included a review of national legislation on mediation, mediation institution regulations, relevant court decisions, and international and regional legal instruments. Second, a review of academic and professional literature included legal journals, research reports, and practitioner publications from international mediation organizations. Third, a case study was constructed based on published mediation cases, annual reports of mediation institutions, and secondary analysis of previous research on mediation practices in selected ASEAN countries.

The countries selected for the comparative analysis are Singapore, Malaysia, Thailand, Indonesia, and Vietnam, representing diverse legal systems, levels of economic development, and stages of mediation infrastructure development. The comparative analysis was conducted by identifying key dimensions such as the legal framework, mediation institutions, professional capacity, level of adoption by business actors, and implementation challenges in each country.

Limitations of the study include limited access to actual mediation case data due to the inherent confidentiality principle of the mediation process, and the focus on a select number of countries that may not capture the full diversity of the ASEAN region. Nevertheless, the triangulation of data from various sources and the focus on representative countries are expected to provide an adequate understanding of regional trends and challenges.

RESULTS AND DISCUSSION

Legal Framework for Commercial Mediation in Selected ASEAN Countries

A comparative analysis of the legal frameworks for mediation in five ASEAN countries reveals substantial variation in legislative approaches, regulatory scope, and degree of convergence with international standards. These legal frameworks form the institutional foundation that influences how mediation is understood, practiced, and integrated into the broader dispute resolution ecosystem.

Singapore has the most comprehensive and progressive legal framework for

commercial mediation in the ASEAN region. The Mediation Act 2017 provides a clear definition of mediation, strong protections for the confidentiality of mediation communications, recognition of agreements to mediate, and mechanisms for the enforcement of settlement agreements resulting from mediation. Significantly, Singaporean legislation adopts a strongly pro-mediation approach by facilitating the suspension of court or arbitration proceedings during mediation and granting courts the authority to order mediation in certain circumstances. Singapore was also one of the first countries to ratify the Singapore Convention on Mediation, demonstrating its commitment to positioning itself as a leader in international commercial mediation.

Malaysia has developed a robust legal framework through the Mediation Act 2012, which provides legislative recognition of mediation as a legitimate dispute resolution process and provides provisions on confidentiality, enforcement of settlement agreements, and accreditation of mediators. Malaysian legislation includes provisions allowing courts to refer cases to mediation with the consent of the parties and provides protections for the use of mediation communications in subsequent proceedings. Malaysia also signed the Singapore Convention in 2019, although the ratification process was still ongoing at the time of this research.

Thailand has adopted a more integrated approach with the judicial system through the establishment of the Court Mediation Center under the 2019 Act on the Establishment of and Procedure for Mediation Affairs. The Thai legal framework emphasizes mediation as part of the court process, with the court obligated to consider the suitability of a case for mediation before proceeding to trial. For private commercial mediation, the Thai Arbitration Act recognizes the possibility of mediation as an alternative dispute resolution mechanism, although specific provisions on independent mediation are relatively limited.

The Court Mediation Procedure mandates mediation for all civil disputes brought to court, with mediators who can be judges or certified mediators. While this regulation has increased exposure to mediation, its focus on court mediation rather than private commercial mediation has limited the development of an international commercial mediation infrastructure. The legal framework for implementing international mediation agreements also remains unclear, although Indonesia has expressed interest in the Singapore Convention.

Vietnam, with its civil law system influenced by French and socialist legal traditions, has a relatively new legal framework for commercial mediation. The 2010 Law on Commercial Arbitration recognizes mediation as a dispute resolution mechanism, and Decree 22/2017/ND-CP provides more detailed provisions on commercial mediation. However, Vietnam's legal framework for mediation remains relatively underdeveloped compared to Singapore and Malaysia, with limitations in terms of provisions on confidentiality, enforcement of settlement agreements, and coordination with international legal systems.

A comparative analysis shows a progressive convergence trend toward adopting the principles outlined in the UNCITRAL Model Law on International Commercial Mediation, albeit at varying speeds and levels of implementation. Countries with more mature legal and institutional infrastructures tend to have more comprehensive and progressive frameworks, while countries still in the early stages of commercial mediation development face challenges in harmonizing with international standards.

Institutional Infrastructure and Professional Capacity

The institutional infrastructure for commercial mediation in the ASEAN region shows substantial variation reflecting differences in policy priorities, resource investments, and the stage of development of the alternative dispute resolution ecosystem.

The Singapore International Mediation Centre (SIMC), established in 2014, has become a leading mediation institution in Asia and one of the most active in the world. SIMC offers a range of services, including ad-hoc mediation, institution-managed mediation, and the innovative Arb-Med-Arb protocol, which combines arbitration and mediation. SIMC data shows significant growth in the number of cases handled, increasing from 23 in 2015 to over 80 in 2019, involving parties from over 30 jurisdictions with a total dispute value exceeding S\$3 billion. The Singapore International Mediation Institute (SIMI) complements this infrastructure by providing a rigorous mediator accreditation scheme and high-quality training programs.

The Kuala Lumpur Regional Centre for Arbitration (KLRC), which has historically focused on arbitration, has expanded its services to include mediation through the Asian International Arbitration Centre (AIAC) Mediation Protocol. While the number of mediation cases handled remains relatively limited compared to arbitration, there is an increasing trend, with mediation increasingly being integrated into multi-tier dispute resolution clauses. The Malaysian Mediation Centre also provides mediation services for domestic and international commercial disputes, albeit on a smaller scale than SIMC.

The Thai Arbitration Institute (THAI) provides commercial mediation services through its THAI Mediation Center, which handles both domestic and international commercial disputes. However, awareness and utilization of THAI's mediation services remain relatively limited, with the majority of cases handled by the institution still being arbitrations. The Thai Court Mediation Center, which is integrated with the judicial system, handles a much larger volume of mediation cases, particularly for domestic disputes.

Indonesia has several institutions that provide mediation services, including the Indonesian Mediation Center and mediation institutions associated with chambers of commerce and business associations. However, the infrastructure for international commercial mediation remains relatively underdeveloped, with limitations in facilities, case management systems, and capacity to handle complex cross-jurisdictional disputes. The Indonesian National Arbitration Board (BANI) has begun developing mediation services, although this is still in its early stages.

The Vietnam Centre for International Commercial Arbitration (VICA) has included mediation as one of its dispute resolution services, with the VICA Mediation Rules adopted in 2017. However, the use of mediation through VICA remains very limited, with low awareness among the business and legal communities of the benefits of mediation compared to arbitration or litigation.

The professional capacity of international commercial mediators also shows significant variation. Singapore has a high-quality pool of mediators with international accreditation and substantial experience in handling cross-jurisdictional commercial disputes. Comprehensive training programs and rigorous accreditation schemes have produced a cohort of professional mediators recognized regionally and globally. Other ASEAN countries face greater challenges in developing the capacity of mediators with

specialized expertise in international commercial mediation, despite intensive training and capacity-building efforts in recent years.

Mediation Practice: Case Studies and Usage Patterns

An analysis of commercial mediation practices in the ASEAN region reveals several significant patterns and trends in terms of the types of disputes mediated, the approaches used, and the factors contributing to the success or failure of resolution.

SIMC case studies demonstrate that mediation has been successfully used to resolve a wide range of transnational business disputes in the ASEAN region, including cross-border construction disputes, joint venture and strategic partnership disputes, distribution and franchise disputes, intellectual property disputes, and international trade disputes. One well-publicized case involved a dispute between a Singaporean construction company and an Indonesian client regarding an infrastructure project worth over US\$50 million. After arbitration commenced and lasted for over a year and incurred substantial costs, the parties agreed to attempt mediation. Through a three-day mediation process with a mediator experienced in international construction disputes, the parties reached a settlement that included project schedule modifications, payment adjustments, and a mechanism for the continuation of the business relationship. This settlement not only resolved the specific dispute but also preserved the business relationship, enabling future collaboration.

CONCLUSION

This study explores the effectiveness of commercial mediation in resolving transnational business disputes in the ASEAN region through a comprehensive analysis of the legal framework, institutional infrastructure, and mediation practices in five selected countries. The findings indicate that international commercial mediation has experienced significant development in the ASEAN region over the past decade, albeit with substantial variations in the level of adoption, institutional capacity, and convergence with international standards across countries.

The legal framework for commercial mediation in the ASEAN region shows a progressive trend of convergence toward the principles outlined in the UNCITRAL Model Law on International Commercial Mediation and the Singapore Convention on Mediation. Singapore and Malaysia have developed comprehensive and progressive legal frameworks in line with international best practices, while other countries such as Thailand, Indonesia, and Vietnam are at various stages of developing and reforming their legal frameworks. This variation reflects differences in policy priorities, institutional capacity, and the stage of development of the alternative dispute resolution ecosystem in each country.

The institutional infrastructure for commercial mediation also shows significant disparities. Singapore has positioned itself as a leading international mediation hub in Asia through the Singapore International Mediation Centre and the Singapore International Mediation Institute, with world-class facilities, a pool of high-quality mediators, and an impressive track record in handling high-value international disputes. Other ASEAN countries are in the process of developing their mediation infrastructure, with varying challenges in terms of resource investment, professional capacity building, and integration with the broader dispute resolution ecosystem.

Mediation practice in the ASEAN region demonstrates that mediation can be

highly effective in resolving various types of transnational business disputes, with high success rates, significantly shorter durations, and significantly lower costs compared to litigation or arbitration. Mediation has proven particularly valuable in disputes involving ongoing business relationships, complex and interdependent interests, and situations where creative solutions that go beyond formal legal remedies can add value. Critical factors for successful mediation include the quality and skill of the mediator, the parties' commitment to the process, the mediation's timing within the dispute resolution spectrum, and sensitivity to cross-cultural dimensions.

Significant challenges remain in the implementation of mediation agreements across jurisdictions. The Singapore Convention on Mediation represents a significant breakthrough in addressing these challenges by providing an international framework for the recognition and enforcement of settlement agreements resulting from mediation. However, implementation of the convention in the ASEAN region is still in its infancy, with only a few countries having ratified it, and practical challenges persisting in the interpretation and application of its provisions. In countries that have not ratified the convention, uncertainty about the implementation of international mediation agreements remains a barrier to wider adoption of mediation.

Regional harmonization and cooperation in commercial mediation show positive momentum but require sustained and systematic efforts. Initiatives such as the ASEAN Mediation Centre Network and efforts to promote ratification of the Singapore Convention represent important steps towards a more integrated regional mediation ecosystem. However, the diversity of legal systems, levels of economic development, and institutional capacities in the ASEAN region requires a flexible approach to harmonization that recognizes different national contexts while promoting convergence on fundamental principles.

Recommendation

Based on the research findings, several recommendations can be formulated to strengthen the role of commercial mediation in resolving transnational business disputes in the ASEAN region:

1. *Harmonization of the Legal Framework*

ASEAN countries are encouraged to continue efforts to harmonize the legal framework for mediation by adopting the principles of the UNCITRAL Model Law and ratifying the Singapore Convention on Mediation. Legislative reforms should include clear provisions on the recognition of agreements to mediate, the protection of confidentiality, the suspension of adjudicatory procedures during mediation, and efficient mechanisms for the enforcement of settlement agreements.

2. *Institutional and Professional Capacity Development*

Significant investment is needed in developing mediation infrastructure, including the establishment or strengthening of mediation institutions with modern facilities, efficient case management systems, and professional governance. Comprehensive training programs for mediators, focusing on international commercial mediation, including cross-cultural dimensions and substantive expertise in various business fields, should be strengthened and expanded.

3. *Increased Awareness and Adoption*

A systematic and sustained education and awareness campaign is needed to increase the business and legal community's understanding of mediation and its

benefits. This could include seminars, workshops, publication of case studies, and integration of mediation into legal and business education curricula. Collaboration between governments, mediation institutions, chambers of commerce, and professional associations is crucial to this effort.

4. *Integration of Mediation in Commercial Contracts*

Businesses are encouraged to include mediation clauses or multi-tier dispute resolution clauses that include mediation in their transnational contracts. Contract templates and guidance on drafting effective mediation clauses can be developed by mediation institutions and business associations to facilitate this.

5. *Strengthened Regional Cooperation*

The ASEAN Mediation Centre Network and other regional cooperation mechanisms should be strengthened with a clearer mandate, adequate resources, and concrete programs for the exchange of best practices, joint training, and progressive harmonization of quality standards. Cooperation could also include the development of a regional panel of mediators who can handle intra-ASEAN disputes with an understanding of the regional context.

6. *Innovation in Hybrid Mechanisms*

The development and promotion of hybrid mechanisms such as Arb-Med-Arb and Med-Arb, which combine the advantages of mediation with the certainty of enforcement of arbitration, could provide an attractive solution for business actors concerned about the enforceability of mediation agreements. Dispute resolution institutions in the ASEAN region could develop protocols and rules for hybrid mechanisms tailored to the regional context.

7. *Continuous Research and Evaluation*

Continued empirical research on mediation practices, factors influencing their effectiveness, and their economic impact is needed to provide a strong evidence base for policy and practice. Collecting and analyzing data on mediation cases, even while maintaining confidentiality, can provide valuable insights into trends and challenges.

International commercial mediation has enormous potential to contribute to more effective, efficient, and sustainable resolution of transnational business disputes within the ASEAN region. Realizing this potential requires a sustained commitment from various stakeholders governments, dispute resolution institutions, legal practitioners, the business community, and academics to develop a mediation ecosystem that is robust, accessible, and responsive to the needs of regional economic integration. With the foundation already established and growing momentum, the ASEAN region is well-positioned to make mediation a crucial pillar in its regional commercial dispute resolution architecture.

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