



## **The Mediation Imperative: Why Successful Companies Cannot Afford To Ignore Mediation**

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## **The Mediation Imperative:**

### **Why Successful Companies Cannot Afford To Ignore Mediation**

Thank you all very much for attending, for the kind introduction and the warm welcome. And my sincere thanks to the sponsors of this evening's event.

This is the third annual Singapore Mediation Lecture. The inaugural Lecture in 2012 was delivered by the distinguished sixth President of Singapore Mr. S.R. Nathan. The second, last year, was given by one of the world's great reforming jurists in the modern era, Lord Woolf of Barnes. Since I am likely to be a complete unknown to most people in this room, you may well be wondering whether this third Lecture will be either a misfortune or a calamity.

The distinction once came up in British politics in the 1870s. Leader of the Opposition Benjamin Disraeli was arguing with then Prime Minister, Mr. Gladstone, and was asked to explain the difference between a misfortune and a calamity. He said that if Mr. Gladstone slipped on the ice while crossing Westminster Bridge and fell into the River Thames, this might qualify as a misfortune; but if anyone dragged him out... So I will try to keep my mind off the Singapore River while I address the subject at hand, mediation.

Of course I feel deeply humbled and honored to be given this opportunity to follow those two very distinguished previous deliverers of the Lecture. Brackett Denniston, GE's General Counsel, does indeed very much regret that he cannot be with you here tonight – at the last minute, he was obliged to cancel his trip due to urgent business that really required his personal attention – but he asked me to convey his best wishes and thanks for giving General Electric the opportunity to share our thoughts with you on this important topic. He is very much a believer in mediation, and firmly shares the thoughts and views that I will convey this evening.

Unlike the pre-eminent promoters of consensus and collaboration who preceded me, I come before you as a full-time professional litigator, one who oversees hundreds of significant disputes each year of every conceivable type, size and description, and in every conceivable place around the globe. I am here to provide something like personal testimony. I am here to tell you that mediation plays a vital role in the success and growth of the General Electric Company, and that we view the expansion of mediation in Singapore and across Asia as a commercial imperative for our continued success in the region and globally.

Mediation is a critical tool as we face the dual challenges of expanding our business in a global environment, and an ever-present focus on keeping risks

and costs under control. For this reason, it is my belief that GE cannot afford NOT to use mediation.

Even in the darkest moments of disputes, we must always check that we are in pursuit of core business objectives instead of abstract legal goals, or emotional vendettas. By sharing GE's practical experiences and perspective on mediation, I hope to provide an example, and maybe some small measure of inspiration, to other companies and their counsel on why they should adopt, or at least try mediation. As you will see during the course of this discussion, this has been a highly fruitful path for GE.

In today's discussion, I will address GE's experiences with mediation, and how we came to adopt mediation, not just as an occasional tool, but as a regular preference in our formal early dispute resolution processes. I will also share our views on the exciting developments that are taking place here in Singapore, and elsewhere in the world of ADR policymaking.

GE has embraced mediation as part of what we at GE have coined as "early dispute resolution" or EDR – for nearly 20 years. In fact, 2015 will mark the 20th anniversary of the implementation of GE's EDR program, first adopted in 1995.

Although we have continued to refine our approach to early dispute resolution over that time, our fundamental commitment to EDR and to the use of mediation to drive the early resolution of conflicts has only grown stronger. But before I talk about GE's EDR program and some of the growing pains that we have experienced, let me talk briefly about why GE, as a globally successful company, so strongly embraces the merits of mediation; and why GE sees mediation and early dispute resolution less as a tool for dispute resolution in the lawyer's toolkit and more as a critical business approach for operating a successful commercial enterprise.

As most of you know, General Electric is a truly global company, in existence for well over 100 years with 305,000 employees, operating in more than 170 countries around the world, and divided across 8 major business lines. We are at heart a company that remains true to our founder, Thomas Edison, by achieving growth through invention and innovation, which today includes cutting-edge technology in the power and oil and gas industries; the aircraft engines that power the world's leading jets and helicopters; locomotives; healthcare imaging and diagnostic equipment used in the world's best hospitals and medical clinics; and financial and banking services, among others. In other words, GE thrives where countries, businesses, and people are, quite literally, thriving, growing, and healthy themselves.

Last year, GE earned \$146 billion in annual revenue. More than half of that revenue was earned outside the United States. \$25 billion, or nearly 20% of our annual revenue, was earned in Asia, figures which have doubled in the last ten years, and which we expect to continue to grow as an overall percentage of our turnover. In short, we are in and a part of, and we are committed to success, here in Singapore, in Asia more broadly, and everywhere else in the world where we operate.

But in every business, disputes will arise. Conflicts are an unavoidable feature of doing business, and never more so than in a global environment. That is simply a natural outgrowth of relationships among parties that at times may have differing commercial goals or encounter unexpected difficulties. In a business as large and diverse as GE, we certainly have our fair share of disputes; and disputes and litigation, left unresolved, impose real risks and costs on any business.

The most obvious is the direct financial cost – the fees paid to external lawyers, experts and other providers of litigation support. What we spend on legal fees and other litigation expenses are profits that will never be delivered to our shareholders or reinvested in growing the business. Likewise, accounting reserves that are established and held for long periods of time when there are probable and estimable losses arising from claims and litigation, and which are put into place to reflect the uncertain outcome of litigation, also have a direct impact on a company's financial performance often for years before a final outcome is known.

But those are only the direct financial costs of litigation, and often those are not the most significant costs that litigation imposes. Additional indirect costs arise from the uncertainty in legal rights that litigation can create. Uncertainty about the outcome of a contractual dispute, or intellectual property rights, or claims associated with a project, may delay the company from moving forward with its business strategy while the litigation is pending, resulting in lost opportunity costs.

Litigation can also serve as a significant distraction to employees and executives of the business, resources that should be focused on growing the company and creating value for our customers and shareholders.

Perhaps most important is the adverse effect that disputes and litigation unquestionably have on business relationships – relationships with customers, suppliers, joint venture partners, and others. Disputes often result in a significant and ongoing disruption in business relations – or even a complete termination of those relations – resulting in lost business opportunity for both

parties. In any successful commercial enterprise, business relationships are critical, and they are as easy to lose as they are costly to develop and maintain. Litigation does not build relationships; it destroys the value associated with them. It can also have a serious negative impact on a company's reputation.

In short, winning cases is not the same as winning in business. Prolonged and costly disputes that disrupt business relationships and create bad public relations detract directly from a company's bottom line results, even if the litigation ultimately results in what the lawyers handling it would regard as a successful outcome. Successful businesses want disputes resolved as quickly as possible, with reasonable outcomes, so the business can avoid wasting money on unproductive conflict, preserve and grow valuable business relationships, minimize reputational risk, and keep its employees and resources focused on innovation, customers and winning in the marketplace.

Not all cases can settle, or settle early, but most ordinary commercial disputes among sophisticated parties can and should. Unless there is significant disagreement about the facts and/or law, or there is a matter of high principle or precedent at stake, reasonable business people should be able to agree on a fair appraisal of the risks, and therefore a fair resolution of claims, before significant resources are expended in unproductive conflict. This is where mediation can help.

In order to emphasize this point about the real commercial costs of disputes, and point the way toward some observations about the value of mediation, I would like to share and contrast two anecdotes involving GE – one a dispute resolved successfully through mediation, a second where our opponent rejected mediation. The first is a recent case in which one of our divisions was sued by a distributor of GE equipment in Canada.

The dispute was over \$20 million, and relations between GE and the other side had become highly acrimonious as the commercial relationship between the companies and executives on both sides deteriorated. While it seemed we were heading straight to an expensive trial that threatened to terminate all relations between our companies, the parties attempted mediation, and were able to settle notwithstanding their strong differences.

Importantly, the terms of the settlement that was reached offered tangible benefits to both sides. GE not only avoided spending a considerable amount on litigation, but we were able to restructure our business relationship with this supplier positively to take advantage of an important market opportunity, and recover sums that we had written off. The other side found that it could succeed and more than recover its costs by reselling equipment from GE at a revised

price that was beneficial to both sides. By exploring options for mutual gain with the help of a mediator, together we achieved a truly win/win outcome.

Contrast this with the other case, which was initiated by a former supplier of equipment to GE in Europe. This supplier filed suit against GE and several other companies in 1999 seeking extra costs on a large and complex project in Russia. The total claim against GE was \$5 million. GE disputed the validity of the claim, but also expressed a willingness to consider mediation, and urged the claimant to mediate and to provide support for its financial demand. The claimant rejected the suggestion of mediation. The reason? I quote what the opposing counsel said when he coldly rebuffed the GE lawyer who explained how the parties might be able to overcome their differences if they involved the support of a neutral third party. “We already have a ‘neutral third party’ and it is the judge.”

As you can imagine, we did not settle that case, and instead spent 10 years in court, costing over \$400,000 for each side in litigation costs. Eventually the other side obtained a judgment against GE – the supplier won its case in conventional terms – but it only recovered about one-tenth of its \$5 million claim. You can see, once you deduct the \$400,000 in litigation costs, that those were not 10 years well spent. More importantly, though, while the case was pending, GE and the other companies that this supplier had sued stopped doing business with the supplier, and the supplier ruined its business in the process, eventually closing shop. All that is left of that company today are a few claims by its former creditors.

This was definitely a lose/lose result. GE lost a potential partner with considerable experience in difficult projects, and wasted money on litigation that could have been used to fund a settlement or put to other far more productive uses. The supplier lost sight of its commercial objectives, and lost its business in the process.

There is nothing surprising about either of these results. The ability to produce results of the kind like my first example is why GE believes so strongly in mediation. I could offer you many instances in which GE has been able to obtain early resolution of disputes through mediation that it was unable to reach through direct negotiations with the other party, as well as results – like renewed or even expanded business relationships – that could never have been achieved through litigation and a final judgment rendered by a court or arbitration panel. And regrettably, I could also offer plenty of other instances where mediation was rejected, and this was – like the second example – followed by lengthy, costly litigation that ultimately failed to serve either party’s commercial interests.

Of course, when disputes arise, the first resort will almost always be direct discussions and negotiations between business representatives. That is the way business is and has always been conducted. But we all know that there are times when parties cannot reach resolution through direct negotiation. And this is true regardless of how sophisticated, or smart, or even reasonable those parties may be. Sometimes emotions run high and interfere with rational decision-making, as evidenced in my first example. Sometimes parties are unwilling to share their real negotiating position with the other side, making it difficult to identify the areas where there might be some commonality and a deal can be reached. Sometimes they are unwilling to be too forward in suggesting a possible settlement lest they be perceived as weak. Sometimes they have an inaccurate or unrealistic view of the strengths and weaknesses of their case. Sometimes there are cultural barriers and expectations that can interfere with direct negotiations.

Competent mediators can often bridge those gaps, and allow parties to find room for agreement that they were unable to identify themselves, as we found in the mediation with our distributor in Canada. They can privately assess each side's interests and identify potential areas of compromise, without either party feeling that their position is being disclosed to the other side; and by the mediator proposing a potential settlement, neither party risks being perceived as weak. A good mediator will allow each side to obtain a better perspective on the position of the other party – help you to place yourself in the shoes of your opponent, and they in your shoes – and can provide a bit of a reality check to the perceived strength or reasonableness of one's own position.

A mediator that is steeped in the cultures of the respective parties also may be able to bridge differences in cultural expectations or communication patterns that were dividing the parties. As the authors note in the well-regarded text, "An Asian Perspective on Mediation," the flexibility of mediation allows mediators to use different approaches to account for cultural differences, or even for the mediator to educate each side on the cultural expectations of the other and to soften the impact of any unintended slights, misconceptions or differences in style or approach. And in Asian cultures where preserving face and social harmony are important values, the benefits of mediation are even more obvious and compelling.

Parties can also achieve business solutions in mediation that simply cannot be obtained in litigation, such as the restructured business relationship with our Canadian distributor, or another recent mediation where we reached a resolution that provided for a one-time payment by GE of a portion of the other party's claim, but coupled that with additional long term purchases of services by a

business partner. Litigation can only produce a winner and loser, sometimes two losers, based on a determination of past events. It cannot result in creative or business-oriented solutions that look forward and serve to renew, deepen or restructure relationships.

Litigation is limited in that it cannot ever really produce two winners. Mediation, by contrast, is not limited in the number of winners that it can produce or the creativity that may be brought to bear to solve disputes, where everyone receives something of value.

Mediation also provides a healthy avenue for achieving a rational and timely resolution in jurisdictions where judicial processes may be exceedingly slow or where one may be uncomfortable with the local judicial process. Moreover, unlike litigation, the parties can shape the process in any way they see fit and that makes them comfortable. The mediator, likewise, can shape the process in the manner that he or she thinks is best calculated to achieve success.

But I will add a word of caution to anyone who has not yet tried mediation. Don't judge the merits of mediation based on the results of one or two failed attempts. There are many reasons why a mediation may not succeed, or succeed on the first try. This is not altogether uncommon as ultimately any successful resolution is purely voluntary and requires two willing participants, and indeed an initial lack of familiarity and comfort with the process itself may act as an impediment.

But as you become more familiar with the process, you will find that you are able to shape it in a way that drives the process to acceptable outcomes that are far preferable to years of time and money wasted on litigation, and to do so meaningfully more often than you can through direct settlement discussions, in a context where commercial negotiations likely have already failed. Prior to visiting with you today, I took an informal poll of GE's chief litigators in each of our major businesses. Almost without exception, they indicated a decided preference for using mediation as a dispute resolution tool, and reported success rates in arriving at a settlement via mediation of over 70%, at the high end, in our Oil & Gas business. Not all of the businesses were that high, there is a range. But even at the low end, which was closer to 30%, the benefits are quite remarkable when you consider the very low costs that I will talk about in a moment. GE's litigators, in short, from long experience all across the world in a diverse array of disputes, believe strongly in the value of mediation. And in an era of relentless cost pressure, with success rates like these, how could they not?



Even mediations that do not succeed – or succeed immediately – are often valuable exercises. They can serve to renew dialogue that has broken down, dialogue which may lead to a settlement or a renewed mediation at a later time. And in the course of any mediation, both sides inevitably will learn new information about the other's side position and perspective that can inform fair litigation or dispute resolution on the merits. That will be helpful regardless of how the case is ultimately resolved.

As many of you know, the Singapore Mediation Centre has been surveying participants in its mediations – both clients and counsel – since its inception in 1997. The SMC has been a pioneer in the use of surveying to assess user satisfaction with its services, a practice that we highly commend and wish were adopted more globally by other providers. Those survey results, which I understand are heavily dominated by parties in commercial disputes, speak loudly to the benefits of mediation to those who try it.

Over the course of more than a decade and thousands of responses, over 90% of participants who used the process indicated they would recommend mediation to others. More than 80% reported saving both time and money in the process. But perhaps most interestingly, more than 50% of the respondents **who did not settle** nonetheless reported saving time and money using mediation.

So, to those who remain skeptical or uncertain about the use of mediation, my question is: Why would you not at least give it a try? Mediation requires only a small commitment of time, which is minimal compared to the time and resources required to litigate a dispute to conclusion. For the same reason, it is quite inexpensive; the only marginal cost is a couple of days of one mediator's time and some preparation time from your counsel – time well spent thinking about both the strengths and weaknesses of one's position, and possible areas of resolution. A willingness to mediate is not a sign of weakness. To the contrary, it shows respect for your business partner; that you value the other's side views and relationship; that you are willing to listen, and to engage in a principled dialogue rooted in the facts, law, and a clear-eyed appraisal of probabilities that is designed to find a solution that meets both of your needs. It is aimed at restoring harmony, rather than perpetuating conflict.

And mediation typically poses little or no downside risk. It is entirely voluntary and any resolution can be reached only with the consent of both parties. You need only divulge the information, arguments, and positions you choose to share – either to the mediator or to the other side. Indeed, rather than viewing mediation as a risk, I would strongly suggest that not attempting mediation is often riskier. Given the challenges we face as commercial enterprises in an increasingly competitive world, a successful business can no longer afford to

ignore any tool that may advance its broader commercial objectives and reduce its overall portfolio of active disputes.

And for the lawyers in the room, my message is that mediation is now an important tool that should become part of your skill set, or you will soon find yourself unable to fully and thoughtfully serve your clients' true interests and needs in the most effective way possible.

Of course, GE did not attain its appreciation for the advantages of mediation immediately. GE really began to re-define its view of litigation and dispute resolution in the mid-1990s, in response to the explosion of litigation that had been taking place over the prior twenty years in the United States, which is where most of our litigation was focused at that time, unlike today. Prior to then, GE did not pursue mediation in any systematic way. Settlements tended to be achieved only after significant time and litigation preparation had occurred... the proverbial settlements on the courthouse steps.

But in the United States, the direct costs of litigation – the fees paid to the law firms, experts, eDiscovery providers, and other support firms – just became too painful to ignore. As litigation began to spiral upward in the United States, GE began to seek relief. However, GE also began to realize that prolonged litigation and disputes carried the other commercial risks and costs that I described earlier. The GE legal team, in particular, came to appreciate that winning lawsuits was not always the same as delivering the best overall value to our internal clients and ultimately, most importantly, to our shareholders.

We found that a more systemic approach to dispute resolution was required – an approach that focused on resolving disputes more quickly and at the earliest possible time that could achieve a reasonable outcome, thereby minimizing not only our outside legal spend, but more importantly the damage to our business relationships, the distraction of our key personnel and resources, and the commercial uncertainty that litigation entails.

In response to this growing understanding of the real costs of litigation, GE adopted what we refer to as our Early Dispute Resolution or EDR program. GE's EDR program entails a systematic analysis of every material dispute at the very earliest stage and then designing a process that the team anticipates will drive an acceptable resolution at the earliest possible time. This is conscious strategy, and often this entails the use of mediation.

At GE, early dispute resolution starts with what we call an Early Case Assessment or ECA. GE policy formally requires that an ECA be prepared for every significant litigation matter within 90 days of filing, but in practice some

type of early case assessment is typically performed by the legal team on any major dispute even before litigation erupts. It has become ingrained in our culture. Regular case reviews at all levels within the company routinely focus on an early assessment of the matter and identification of possible opportunities for early resolution.

This Early Case Assessment entails a quick but reasonably thorough factual investigation at the outset of the matter, including detailed interviews by counsel of key witnesses and the review of key contracts, documents and communications. The ECA will also analyze key legal questions and assess likely outcomes and risks in the jurisdiction in which the matter is pending or is likely to be filed.

The GE Early Case Assessment process encourages the legal team to carefully assess not only the legal risks but also the commercial risks that the dispute poses – key business relationships at risk, potential reputational risks that could have repercussions with other business partners, expected expenditure of time by employees and other important business resources, commercial opportunities that might be lost while the dispute remains unresolved – and to consider creative approaches or solutions that might be used to achieve an early resolution of the dispute.

We take plenty of cases to trial each year, and I am happy to report that we win more than our fair share. But this process helps to ensure that we are focusing our litigation resources on the right cases, and that we always keep the company's broader commercial goals at the front of our minds. The business world moves quickly, and quick results that achieve the primary objectives of the business are generally valued far more by our business clients than even a potential promise of better results that would take far longer and might compromise fundamental business goals in the process.

Understanding the business considerations at stake requires our lawyers to partner with our business clients in performing the ECA. Disputes and lawsuits are not simply problems that are “thrown over the wall” to the legal team. Legal problems are fundamentally business problems. And the ECA process thereby serves the additional purpose of driving early alignment between our legal strategy and the client's business objectives.

The fundamental objective of the Early Case Assessment is to facilitate informed decision making, and to identify potential opportunities for early resolution of disputes. Quite often we find that mediation is the best means for determining whether an early resolution is feasible.

Performing the ECA also puts us in the best position to mediate. At times, we find that early mediation may fail where the other party has not done the same kind of homework we have, and does not have a full understanding of its case, both the strengths and the weaknesses, or the business costs associated with bypassing an early resolution. So, for us, the Early Case Assessment and mediation go hand-in hand.

Of course, mediation and early dispute resolution are not appropriate in every case. Sometimes additional document disclosure or factual development is necessary to bring a dispute into sharper focus, and sometimes, as I discussed, a case must be fought to conclusion. But those instances are actually rare. In the vast majority of cases, the real issue is how to achieve the most appropriate commercial outcome in that particular business transaction or with that particular adversary. And in those circumstances, for the many reasons already discussed, it has been our experience – demonstrated time and again over the past two decades – that mediation serves as an invaluable tool for achieving the best overall outcome.

Despite the many benefits of mediation, we find that it all too often remains a means of resolving conflict that is not accepted by the other side, often resulting in a lose/lose situation like the dispute that I described with our equipment supplier in the Russia project. So overcoming resistance, skepticism or wariness by the other party is an important challenge and an important objective for us to have in mind as we try to deploy mediation.

When he spoke here last year, Lord Woolf lamented that mediation has not achieved global growth as quickly as he had hoped. But litigation remains a global growth industry, and the relatively slow uptake of mediation probably derives as much from its unfamiliarity in many parts of the world as from any other factor. It is certainly well established in the United States and gaining ground rapidly in Western Europe.

Consider, for example, that in 1990 only 4% of all of GE's significant pending disputes were non-U.S. matters, and all but one of those cases were from Canada. Today, approximately 40% of our significant litigation is venued outside the United States. Initially that increase was concentrated in Europe, leading to a push for the expansion of mediation in Europe. But now we are beginning to see a growth of litigation and disputes in Asia, South America, the Middle East, in North Africa, and other parts of the world. As litigation and disputes globalize, so, too, surely will mediation.

Within GE, we have begun to move toward more standardization of our contracts around the world. In doing so, we recently canvassed those same

global chiefs of litigation that I referred to earlier in each of our major businesses, about their preferred methods of dispute resolution. Almost all of our businesses today prefer to include a mandatory mediation requirement before arbitration or litigation in our commercial contracts. It's not always achievable, but it's a goal for most of GE's businesses in most of our commercial negotiations. So whether we are selling aircraft engines, power plants, or magnetic resonance machines, we are today often pushing for our contracts to include an explicit mediation requirement.

You may ask, why bother including this as a contractual requirement? While it is true that you do not need a pre-existing requirement in order to attempt mediation, my colleagues in the various GE businesses have discovered, independently of each other, that in most countries it is difficult to get to mediation without this. In other words, this is a tool for overcoming some of that resistance or wariness that I spoke about a moment ago. Once a dispute arises, the parties – and in particular the lawyers who represent them – may feel that agreeing to mediate is a sign of weakness or just a waste of time, or they may be unfamiliar with and therefore unduly wary of the process. But a contractual requirement to mediate will usually overcome this reluctance.

The trend within GE to ensure that mediation is actually used in our disputes is consistent with a global trend we are seeing in many countries. While mediation may not be increasing at the rate that Lord Woolf had hoped, it is definitely increasing, and we expect this trend to continue. In Europe, for example, we have seen over the past decade a Mediation Directive come into existence, and mediation has been suggested as a means of collective redress, so that multiple claims and claimants can be joined together to obtain compensation for similar injuries via this cooperative mechanism, without resorting to the very American concept of class actions, which we have seen may be subject to abuse.

For its part, GE has participated through the International Mediation Institute (IMI) in numerous initiatives to promote mediation. One of the most recent – and most interesting – which is still at a very early stage, is the proposal advanced this past summer within the United Nations Commission on Trade Law (UNCITRAL) for an international convention on the cross-border enforcement of mediated settlement agreements. This proposal is now being explored by UNCITRAL.

We are excited about this, and it reflects the energies being devoted to making mediation a preferred feature of dispute resolution around the world. We believe that if the proposed convention comes into existence, mediation and settlements will benefit in the same way that arbitration benefited from the United Nations Convention on the Recognition and Enforcement of Foreign

Arbitral Awards (the so-called New York Convention) when it came into existence over 50 years ago.

Making it easier to enforce mediated settlements will inevitably increase the use of mediation, and more mediations will result in more settlements. And this, without question, will benefit GE and other companies that are actively engaged in international commerce.

All of this brings me to the recommendations published last December by the International Commercial Mediation Working Group that was set up by Chief Justice Menon. The Chief Justice had the vision to charge the Working Group with proposing ways to develop Singapore into a world center for international commercial mediation to better serve the needs of the increasing number and complexity of cross-border disputes. This reinforces Singapore's existing reputation, among companies like mine, as a place to resolve disputes that is, paradoxically, both highly predictable and cutting edge at the same time.

Two of the Working Group's recommendations in particular present opportunities to translate the Chief Justice's vision into quick action.

The first is the focus on quality standards in mediation by creating a new professional body for mediation to set transparent and credible standards and to credential mediators meeting those standards. The mediation field needs to evolve quickly into a true, free-standing profession, complete with high ethical standards that are enforced through believable and rigorous disciplinary systems if major businesses are going to trust its practitioners to have the special skills and orientation that will help them resolve major disputes.

Quality and transparency are vital but are currently too variable in international dispute resolution and mediation. When a company like GE conducts business across borders, and occasionally finds itself in a dispute, it may be exceedingly difficult to know who the most qualified or even competent international mediators may be. And if this is difficult for a company the size of GE, with all of its resources, we can only imagine the difficulties that smaller businesses may have in finding the right mediator for a dispute, or feeling comfortable that a proposed mediator has the competency and standing that they seek.

So I applaud the Working Group's recommendation, which I understand will result in the launch of the Singapore International Mediation Institute, or SIMI, in early November. And I am especially proud of the fact that GE has, at least indirectly, made its own contribution towards this initiative. I understand that SIMI is drawing some of its quality and transparency inspiration, as well as its ethical standards, from the International Mediation Institute, or IMI. GE was

one of the founding members of IMI, and the GE Foundation has provided significant financial contributions to IMI. So I like to think that GE, in spirit, has been with Singapore throughout this process.

The second action is the simultaneous establishment of an international mediation service provider, the Singapore International Mediation Centre, or SIMC, with a diverse, high quality panel of international mediators that meet the standards set out by SIMI.

Also interesting are other novel proposals in the Working Group's Report – for example that SIMC would offer services as a designating authority for mediators for parties in dispute, the ability to provide the names of top mediators for deal-making, post-merger facilitation, and even the design of dispute resolution processes for companies.

Today, it is accepted in the world of business that for arbitration, Singapore is a premier location due to the efforts of both the judiciary and the Singapore International Arbitration Center, or SIAC. From a user perspective, I want to emphasize how encouraging it is to see similar drive and enthusiasm being plowed into quality mediation alongside excellence in arbitration.

Among the many remarks Lord Woolf made in last year's lecture, one for me really stood out. He was referring to international arbitration in general. I quote, with his permission, his words, because I cannot express the point better:

*I have over the years found among the arbitration industry a remarkable reluctance about promoting mediation and its deployment. ... I find the reasons advanced for this worryingly unsatisfactory. If this is due in any way to supposed self-interest, this is mistaken. Parties to commercial litigation are increasingly becoming jaundiced as to the rising costs of commercial litigation. If increased use of mediation reduces the average cost of arbitration, this would increase the popularity of both.*

SIMI and the SIMC will together not only increase the confidence of users in mediation and therefore the popularity of mediation, but will also increase the popularity of Singaporean arbitration, whose reputation in global companies like GE is sterling. By offering thoughtful, highly evolved, and well-supported services in both areas, Singapore will be looking at growth in international dispute resolution from the user's perspective, with mediation and arbitration as complementary tools that support one another. This is exactly what companies need if we are to grow internationally and accept commercial risks without worrying excessively about overly expensive or debilitating litigation risks or costs. I sincerely hope that other jurisdictions will follow the Singapore model.

In closing, let me say that GE is, and I personally am, deeply proud to be a small part of the vision, action and leadership that Singapore exhibits in this vital area, and we hope that other countries in southeast Asia and much further afield will judge that the time has come to follow suit.

Thank you very much for your time and attention this afternoon. I look forward to continuing this discussion.