

**THE ROLE OF DISPUTE SETTLEMENT MECHANISMS IN PTAS: A
COMPARATIVE ANALYSIS OF LEGAL FRAMEWORKS AND
EFFECTIVENESS**

*Dr. Anil Kumar Dixit**

*Aashi Dixit***

ABSTRACT

This paper discusses the role of dispute settlement mechanisms in Preferential Trade Agreements that involves a comparative analysis of the legal framework and effectiveness. As PTAs are changing the landscape of global trade, mechanisms of dispute settlement in such agreements are inevitable for ensuring compliance and fostering economic cooperation among the member states. This paper bases the discussions on case studies concerning various major groups among them being the NAFTA, the CPTPP, RCEP, and some regional European Union trade agreements. Every aspect of all these comparative cases features relevant law provisions and differences in procedures related to dispute settlement involved within such processes. In the study, there has been seen strict analysis on factors like speed, fairness, enforceability, and outcome in the significance of differences in the effectiveness of settlement mechanisms among different PTAs. It does show that although some agreements benefit with deep frameworks in settling their disputes, some PTAs are limited that make them rather less effective, especially in developing countries whose legal mechanisms may not easily be addressed with limited resources. Other ordinary problems in such a mechanism involve jurisdictional disputes, the effectiveness of implementation of compliance, and implications of political factors on arbitration results. The said challenges will, therefore, be addressed in the research, which will also provide recommendations to future PTAs in the form of best practices meant to enhance equitable and efficient dispute settlement processes. Although the emphasis is on mechanisms for settling disputes in PTAs, it is necessary to situate these frameworks against the backdrop of the World Trade Organization (WTO) as the pillar of multilateral trade regulation. The paper also looks into the ways in which PTA mechanisms for settling disputes overlap with WTO norms,

* Professor, Career College of Law, Bhopal

** Independent Academic Researcher, BBA-LL.B, LL.M., NET (Law)

especially in the context of the Most Favoured Nation (MFN) principle. The deviation from MFN provisions in PTAs fuels concerns regarding coherence and consistency in international norms of trade, as this creates tension between regionalism and multilateralism in conflict resolution. Overall, the research contributes to the broader discourse on international trade law by shedding nuances and differences in mechanisms that facilitate dispute settlement and adds insights to the area by policy-makers, legal practitioners, and scholars. In this regard, the paper underscores how effective dispute resolution is also an important step towards trust building and cooperation in an ever more integrated global economy and proceeds arguing for reforms even as the trading landscape transforms.

Keywords: International Trade Law, Comparative Analysis, Legal Frameworks, EU Trade Agreements, Developing Countries, WTO, Most Favoured Nation.

INTRODUCTION

1. Definition and Significance

Definition and Importance of Preferential Trade Agreements: Preferential Trade Agreements are those treaties that are made between two or more countries in which an award of preferential access is given to the other's market. Mostly, this aim has been fulfilled through the elimination of tariff and other impediments.¹ PTAs try to make economic cooperation between member nations promote a trade relation and subsequently enhance economic development. In the globalized world, PTAs have been very essential in a country's quest to acquire favorable trading conditions. They allow nations to respond quickly to competitive forces by signing trade agreements that allow investment and economic cooperation. As the global market is complicated, PTAs are strategic building up economic strength in the pursuit of sustainable development.

i. Types of Preferential Trade Agreements:

Preferential Trade Arrangements (PTAs) can be categorized in general terms into reciprocal and non-reciprocal arrangements. Reciprocal PTAs are those where all the participating nations commit to reducing or removing trade barriers between and among each other. These are the most popular type and comprise agreements like the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) and the Regional Comprehensive Economic Partnership (RCEP). Non-reciprocal PTAs often include preferential market access offered by developed countries to developing or least developed countries with no expectation of similar access for such developed countries. The GSP schemes provided by the EU or the US are examples. The type of agreement evidently has an impact on the depth of commitments, enforcement mechanisms, and the strength of the dispute settlement provisions. Non-reciprocal arrangements usually possess less robust legal enforcement institutions and are subject to political discretion, while reciprocal PTAs generally have sophisticated procedural protections and institutionalized dispute settlement procedures.

¹ Chad P. Bown and Douglas A. Irwin, "The WTO and the Future of Trade Agreements", 1 Journal of International Commerce and Economics 1 (2018).

ii. Global Trade Environment

The past decades have witnessed a sea of change in global trade environment. Regional trade blocs and bilateral agreements entirely redesigned the mode in which trading today works. Of course, no further serious setback or stagnation in discussion problems at the WTO level had occurred about trade liberalization; otherwise, countries look for access into PTAs with a very rapid establishment of such relevant parts relevant to liberalization that respective states will eventually enjoy access into improved mutual economic opportunity and co-operation.² For instance, each PTA has its unique rules, requirements, and procedures of how they settle their conflicts as they impact the relationship that prevails in world trade. The increasing complexity in world trade requires more relevance for PTAs as new economic forces strengthen the policies and practices provided in world trade.³

iii. Emerging Trends in New PTAs

Recently, the PTAs have manifested the marked trend towards inclusion of broader issues; some even embrace labor rights, environmental standards, or digital trade. This in fact gives more prominence to an added realization that these trade regimes are increasingly and profoundly tied up with concerns related to the social as well as environment contexts.⁴ PTAs have become a means through which countries are accessing economic benefits but, above all, a way through which some of the world's most serious issues like climate change and inequality can be addressed among others. Such a trend would give a clear impression of how the evolution of trade agreements is changing and what opportunities they afford toward contributing to the achievement of sustainable development goals. While negotiating PTAs, these factors can further

² Carlos Rojas, "The Evolving Role of PTAs in Global Trade: A Historical Perspective", 45(2) *International Trade Review* 233 (2020).

³ Henrik Horn and Petros C. Mavroidis, "The WTO Dispute Settlement Procedure: A Model for Regional Trade Agreements?", 12(2) *European Journal of International Law* 211 (2001)..

⁴ Simon J. Evenett and Bernard Hoekman, "International Cooperation and the WTO: The Role of Dispute Settlement in Trade Liberalization", 19(2) *International Economic Journal* 139 (2005).

legitimize and make the agreement more acceptable to stakeholders and would have an impact on the agreement's effectiveness and compliance levels.⁵

iv. Role of PTAs in Post-Pandemic Recovery

The COVID-19 pandemic has further heightened the role of PTAs for the facilitation of trade and economic recovery.⁶ By nature, PTAs will help the nations reduce the trade barriers prevailing between them and support security of supply chains, besides attracting investments that may be required to revive the economies of nations following the pandemic. The weaknesses in global trade networks unveiled by the pandemic led almost every country to reassess its future policy and strategy regarding the matter.⁷ PTAs are going to become indispensable tools at that moment, and then the same will be applied toward strengthening more concrete economic relations between nations through increased resilience against shocks that are likely to strike again.⁸

v. WTO Notification and Legal Coherence

According to WTO regulations, PTAs are to be notified to the WTO to provide transparency and adherence to multilateral trade practices. This is required under Article XXIV of GATT (for reciprocal PTAs) and the Enabling Clause (for non-reciprocal PTAs). Notification enables the WTO and its members to review if the PTA aligns with WTO principles, most importantly whether it results in trade creation instead of trade diversion and whether it covers "substantially all trade" between parties. The Committee on Regional Trade Agreements (CRTA) considers such notifications and can raise concerns regarding the legality or scope of a PTA. In reality, there are discrepancies in the extent to which PTAs are notified or examined, with various agreements pending review or not transparent enough in their implementation. These legislative grey areas

⁵ Cécile Kauffmann, "Assessing the Effectiveness of Trade Agreements: A Comparative Study", 33(1) International Trade Journal 39 (2019).

⁶ World Trade Organization, World Trade Report 2021: Economic and Trade Policy in the COVID-19 Pandemic (2021).

⁷ Peter Van den Bossche and Wael Zdouc, The Law and Policy of the World Trade Organization: Text, Cases, and Materials (Cambridge University Press, 2017)

⁸ Chad P. Bown and Meredith A. Crowley, The WTO and the Future of Trade Agreements: The Impact of Trade Disputes on the Global Economy (Harvard University Press, 2020).

relate to how the outcomes of dispute settlement under PTAs are compatible with WTO obligations and whether or not they can be appealed in the WTO's own dispute settlement process. Harmonization of regional and multilateral legal frameworks is therefore critical through correct notification and review.

2. Role of Dispute Settlement Mechanisms

i. Maintaining Trade Relationship

The role of dispute settlement mechanisms under PTAs is a very important role in dealing with the trade disputes that may have caused the dispute.⁹ It gives a mechanism for the process of resolving disputes, and thus the parties can keep their relationship stable while at the same time avoiding these conflicts from developing into more political world issues. Effective dispute resolution leads to trust among member states. This can lead to further cooperation and investment, the reliability of which cannot be overstated in an integrated economy where interdependencies are immense and misunderstandings have cascading effects.¹⁰

ii. Impact on Investor Confidence

Effective dispute settlement mechanism in matters of trade relations would enhance investor confidence. Investors prefer stable environments where their rights are guaranteed and there is a clear mechanism of dispute resolution in a fair and efficient manner. PTAs that have robust and effective frameworks of dispute resolution tend to attract foreign investment because it shows that the rule of law is respected and the interest of the investor is guaranteed. Weak frameworks for dispute resolution would dissuade investment because unadjusted trade disputes are perceived as riskier for investors. Legal significance of dispute settlement under PTAs is high because they explain how the rules on trade are to be interpreted and applied. In most cases, such

⁹ Hyun Lim, "A Comparative Study of Dispute Settlement Mechanisms in Regional Trade Agreements", 14(1) Asian Journal of Comparative Law 123 (2019).

¹⁰ Yang Zang and Yi Zhang, "Comparative Effectiveness of Dispute Resolution in PTAs: Insights from Asia-Pacific Agreements", 54(2) Journal of World Trade 221 (2020).

mechanisms suffer from jurisdictional, compliance, and political interference problems. Other concerns here include the inconsistent and subjective legal interpretation among member states, unwillingness of the states to adhere to the decision, and local politics. Understanding all of these is crucial for rating the general effectiveness of PTAs in creating equitable trade regimes. As trade fights become more complex, such mechanisms for strong and objective conflict resolution are more emergent.

iii. Equilibration of Power Play

This dispute settlement mechanism is also of paramount importance in equilibrating the power play between different member states, especially between the developed and developing ones. Often, smaller developing countries lack the wherewithal or negotiating power to mount an effective challenge against a dispute from a larger and more developed economy. This balance ensures that every member state of the PTA has equal opportunities to seek redress, and the process should therefore be fair and accessible. This will help enhance trust and cooperation between the PTAs toward more sustainable and inclusive trade relationships.

iv. From NAFTA to USMCA: Updated Legal and Dispute Settlement Framework:

Initial signed in 1994, NAFTA was a historic bilaterally reciprocal PTA that created a comparatively strong system of dispute settlement, especially under Chapter 20 for disputes between states and Chapter 11 for ISDS. Nonetheless, over time, there increased concerns about the perceived arbitrariness in investor-state arbitration as well as the unenforceability in certain provisions. In 2020, the United States-Mexico-Canada Agreement (USMCA) replaced NAFTA, featuring substantial shifts in both substantive commitments and processes for dispute resolution. Chapter 31 in USMCA addresses state-to-state dispute settlement and contains measures to remedy previous procedural roadblocks, including panel formation. The ISDS mechanism has been drastically restricted and now only applies between the US and Mexico under particular sectors and circumstances. This change is indicative of a larger movement in PTAs away from reconsidering the scope and validity of investor-state arbitration. For purposes of this paper, this change from NAFTA to USMCA is essential to understanding how dispute

settlement mechanisms adapt in response to political pressure as well as systemic legal criticism.

3. Research Objective

This study will contrast and compare the legal framework of PTAs regarding their mechanisms and effectiveness in dispute settlement. This paper, after an extensive study of case studies, identifies best practices and challenges for PTAs. Mechanisms available in NAFTA, CPTPP, RCEP, and the trade agreements of the EU are being compared to know whether different approaches have different implications for outcomes in dispute resolution. This paper will add to further best practices that can be adapted or adopted into future trade agreements. The study will also identify how emerging challenges in the global arena-the digital trade disputes, post-pandemic recovery and environmental regulations-will continue to shape the development of dispute settlement mechanisms in PTAs. From the perspective of the end, relevant issues are discussed to attain a panoramic view of the role that dispute settlement may be able to play in a world trade environment increasingly characterized by change. Ultimately, the paper is expecting to provide pragmatic recommendations on such improvement as would be in a position to facilitate enhancing the said processes of dispute resolution meant for meeting the broader objectives as sought through international trade agreements concerning promoting economic growth and stability.

LITERATURE REVIEW

1. Theoretical background

Different theoretical approaches characterize mechanisms of dispute settlement in international law, reflecting the manner in which a state negotiates conflict to resolve it. One of the most well-established theories is realism or the concept that states act only in their self-interest within a competitive international system. Realists argue that, more often than not, the results of disputes are defined by power dynamics; hence, states operate unilaterally most of the time rather than through the formal processes of dispute resolution. It held, however that these mechanisms could be nullified by states' desire to hold sovereignty and power instead of adhering to legalism. According to the theory, international institution as well as

the cooperation of states is the view of the liberal.¹¹ This holds a notion that structured conflict-settlement mechanisms could contribute positively toward the peaceful settling of conflict and stability of relations regarding trade. Liberals also emphasize how such mechanisms increase predictability for international interactions and push states toward conformity with established rules to foster a more cooperative order internationally. The constructivist theory relies heavily on social constructions, norms, and state identities regarding the behavior of states on issues of dispute resolution.¹² Essentially, this school of thought bases the effectiveness mechanisms of settling disputes on commonly held values and historical relationships. Constructivists argue that dialogue or negotiation is likely to succeed if the states concerned have an identity that is understood in a common manner and enjoy a mutually held relationship. According to the functionalists theory, with increased interdependence between the states, there comes a corresponding rise in the demand of a working dispute settlement mechanism. This is because international trade is very complicated, that some formal entity needs to be used in order to solve disputes in formally legitimized legal frameworks; hence, for it to work cohesively while cooperating, it should place mechanisms for such.

2. Existing Research

The literature on PTAs and their mechanisms for settling disputes has grown impressively in recent years. Of particular note are those studies that have examined the effectiveness of specific mechanisms in different PTAs, such as NAFTA's Chapter 19 on anti-dumping and countervailing duty cases. Scholars have analyzed outcomes under these frameworks, pointing to factors that make some more successful than others. Comparative studies have also revealed how the processes of dispute settlement differ from one PTA to another, thus indicating the ways in which different legal frameworks and procedural rules may influence the willingness of member states to resort to dispute settlement. For example, a comparison of the CPTPP and the RCEP has revealed how different mechanisms influence dispute

¹¹ David Pomeranz, "Dispute Settlement in Preferential Trade Agreements: A Global Perspective", 18(3) World Trade Review 439 (2019).

¹² Andrew T. Guzman and Joost Pauwelyn, "The Future of International Trade Law: Shifting Paradigms and the Role of PTAs", 44(1) Yale Journal of International Law 1 (2019).

outcomes and member state interaction. Further, research has been done on why developing countries are especially unable to utilize the mechanisms put in place for dispute settlement. Some of the reasons are on legal capacity, funds, and access to knowledge that bar developing countries from effectively asserting their rights under a PTA. From such research, it has been determined that at times the potential inequalities in dispute settlement make developing countries unable to effectively assert their rights under a PTA. Although much has been achieved in the literature, most significant gaps remain. More comparative work is needed to evaluate the effectiveness of the mechanisms of resolving disputes in a larger number of PTAs. The studies would be able to uncover lessons on best practice and prove useful for the policymakers in framing future agreements. The current work sometimes fails to capture the nexus between political dynamics and these mechanisms. Understanding how domestic politics drives the willingness of states to comply with dispute resolutions and negotiate multilaterally can thus be very relevant for judging the overall effectiveness of dispute settlement.

LEGAL FRAMEWORKS OF DISPUTE SETTLEMENT MECHANISMS IN PTAS

1. General Description of Popular Architectures

The mechanisms for settling disputes in Preferential Trade Agreements (PTAs) usually give the member states structured procedures for resolving their disputes. Most of these mechanisms usually consist of common elements such as consultation, arbitration, and procedures before the panel. Most PTAs will provide an overall framework for encouraging member states to settle their disputes amicably, before resorting to formal processes. The first stage of this is usually consultation, where there is an attempt to try and seek a negotiated settlement between parties. If these consultative meetings fail, the mechanism usually allows the establishing of an arbitration panel, which evaluates the dispute and renders a decision. Usually, the panel examines some evidence and hears arguments given by the parties involved, and its decision is, importantly, usually binding as opposed to other less formal procedures for dispute resolution. Most of the provisions also indicate time limits at each stage of the procedure, to make sure that disputes are solved promptly and therefore do not

hinder trade. Moreover, several PTAs also provide compliance-monitoring mechanisms, by which parties may ensure adherence to the decisions of the panel. But the efficiency of such frameworks would vary depending upon the particular legal and procedural provisions incorporated in every agreement.

2. Case Studies

- i. **NAFTA North American Free Trade Agreement:** NAFTA started in 1994 as the North American Free Trade Agreement broadly ensures the observance of dispute settlement procedures with respect to matters involving Chapter 19: anti-dumping and countervailing duty issues.¹³ The mechanisms of NAFTA reserve for the parties the privilege of appealing domestic anti-dumping decisions before an independent panel. In this sense NAFTA provides for internationalized trade practices. These committees' decisions were final; hence, with these decisions, it gave some predictability to the member countries. The mechanism still had a problem of political influence and compliance, particularly with changing dynamics of trade.
- ii. **Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP):** The CPTPP is a TPP version.¹⁴ This agreement carries new provisions regarding dispute settlement that reflect the experience of today's trade. This feature is one of the most salient features of introducing a more flexible approach toward the resolution of disputes on environmental and labor standards focused on sustainable development. It also provides for the settlement of disputes arising from regulatory measures as trade becomes increasingly complex in a digital economy. These special features are likely to enhance cooperation among member states while keeping them accountable for trade practices.
- iii. **Regional Comprehensive Economic Partnership (RCEP):** RCEP, which came into force in 2022, is even more conciliatory compared to any other PTAs in procedure.¹⁵ Consultations and mediation are given utmost importance through the initial procedures before settling for formal dispute resolution processes. This would, therefore, be faster resolutions and reflect the aspirations of the member states towards the enhancement of

¹³ North American Free Trade Agreement, Chapter 19: Dispute Settlement Procedures (1994).

¹⁴ Comprehensive and Progressive Agreement for Trans-Pacific Partnership, Chapter 28: Dispute Settlement (2018).

¹⁵ Regional Comprehensive Economic Partnership, Chapter 15: Dispute Settlement (2020).

trade and investment flows that do not get clogged by long and technical legal processes. Of course, this approach provokes questions on the resolution being binding and whether all members would apply it inconsistently.

- iv. **European Union Trade Agreements:** The EU trade agreements quite often contain elaborate mechanisms of settlement of disputes that indicate what the European Union system is all about. Such mechanisms are often strong on procedural rules and will always uphold the rule of law.¹⁶ For example, most of the agreements provided by the EU contain clauses where public participation is facilitated during the dispute resolution process; therefore, it becomes very transparent and inclusive of other stakeholders. The EU also uses a court-like process to settle disputes, whereas arbitration mechanisms are most widely used in other PTAs. Such legal intricacy helps the EU maintain its levels of regulation while remaining in cooperation with other nations.
- v. **India–ASEAN Free Trade Agreement (AIFTA):** The India–ASEAN FTA was signed in 2009, a substantive agreement for India covering both trade in goods and services. The dispute settlement mechanism is provided under the Agreement's Chapter 16 with a focus on consultation as the first step, with arbitration as a second option if an issue persists. The mechanism has been invoked very infrequently, with the depiction of political hesitation, procedural vagueness, and institutional constraints. India's participation in this agreement demonstrates the challenges of implementing dispute resolution in agreements among multiple developing economies with varying legal capacities.
- vi. **India–Japan Comprehensive Economic Partnership Agreement (CEPA):** This bilateral PTA, which entered into force in 2011, has a formalized dispute settlement mechanism based on consultations, formation of a panel, and binding rulings. The CEPA demonstrates a more formalized approach borrowed from WTO procedures. Notably, it includes access to arbitration and gives timetables to each phase. Although no significant dispute has yet proceeded to the entire mechanism, its presence lends a degree of legal certainty to businesses and investors from both nations. The treaty illustrates the way

¹⁶ European Commission, *The EU's Trade Agreements: Dispute Settlement Mechanisms* (2021).

India's newer PTAs are increasingly adding stronger legal frameworks to deal with trade disputes.

COMPARATIVE ANALYSIS OF EFFECTIVENESS

1. Effectiveness Criteria

To measure the effectiveness of the PTA's dispute settlement mechanism, a couple of criteria may be identified: speed, fairness, enforceability, and results. 'Speed' refers to the time taken in the dispute resolution process from the start until the final decision. A faster outcome is often better because protracted disputes can disrupt trade and have a bearing on the mutual relationships of member states. 'Effectiveness' deals with the fact that process be perceived to be equitable or impartial and open. The procedures through which both parties are heard and given an opportunity to make their cases work better when handled impartially without prejudice. 'Enforceability' identifies how far the member countries adhere to the ruling by panels or councils. A mechanism which is weak in enforcing the provisions may result in failure to comply and become futile. 'Outcomes' measure the extent to which the actuality of the settlements by these mechanisms has in fact yielded consequences, in the sense that the ultimate outcome is satisfactory to the disputing parties and sustainable over a period.

2. Case Analysis

- i. North American Free Trade Agreement (NAFTA): Dispute Settlement Mechanisms employed under NAFTA-That is to say, Chapter 19-were fair enough and workable in practice, while the case taking was really quick, but the application was quite swift. The panel's decisions are always made authoritative, and member states maintained it to high compliance. Unfortunately, it was always faulted and criticized by those who say that it yielded to apparent pro-domestic biases in certain rulings to make it less just and fair. Outcomes varied: some are major implications for trade practice and reflect political pressures on the mechanism's effectiveness; others reflect general policy pressures.¹⁷

¹⁷ Ana M. Tavares, "Challenges in the Dispute Resolution Mechanisms of Free Trade Agreements", 21(2) Journal of International Economic Law 305 (2018).

- ii. CPTPP: There is a much more flexible set of provisions under the CPTPP to promote greater fairness in the outcomes, especially in regard to environmental and labour standards. The procedure - focusing co-operation and mediation would certainly make for a faster process though enforcement would be yet another big issue as interpretations of conformity by the member states would vary. Altogether though, the result was optimistic in solving problems facing the trade at this moment, while the efficiency would depend on how keenly the member countries could remain committed to solving these.
- iii. Regional Comprehensive Economic Partnership (RCEP): The RCEP system has been simplified with direct consultation and mediation leading to quicker decisions, since the enforcement would be compromised by doing so. The procedure would usually result in a quicker resolution, and it gives rise to questions whether the decisions made under the process would be binding or homogenous among the member states. It might not fulfill fairness requirements when one's position tends to avoid formal resolution and adjudication. Thus, although RCEP would be a facilitator of trade and investment flows, its overall effectiveness in more complex disputes remains uncertain.
- iv. European Union Trade Agreements: The trade agreements between the member states of the EU have been pretty robust and legally structured together with transparent procedures that amount to a higher standard of fairness and enforcement. This further provides an authentic stamp on the judgments taken through its court-like system which induces cooperation between the states of the EU. However, being a very intricate system results in a relatively longer period to take judgments than the others under the umbrella of PTAs. It has provided positive outcomes for the most part and maintains higher regulatory standards along with successful resolution of the dispute issues arising due to the nature of the trade between them.

3. Impact on the Member Countries

The performance of dispute settlement mechanisms is either varied or is between developed and developing countries. Generally, developed nations have all the resources, legal skills, and political power which make it easier for them to have an easy way through dispute resolution procedures. For instance, they can utilize legal structures offered by PTAs more effectively in a manner that will favor their case. On the other hand, developing countries are

characterized by limited legal capacity and financial resources. All these factors can hinder the ability of such countries to actively participate in dispute resolution. Unequal outcomes may arise when developed nations are likely to obtain favorable resolutions while the developing countries are likely to find it difficult to enforce their rights. In addition, domestic political forces may affect the willingness of member states to comply with the settlement decisions. Institutional capacity of a country may have stronger institutional arrangements for enforcing compliance due to the strong capacity to comply in developed countries. Developed countries may be exposed to stronger political pressures than developing ones that may hamper implementation.

CHALLENGES AND LIMITATIONS

1. General Problems of Settlement of Disputes

There are a lot of general issues that could invalidate the workability of Dispute Settlement Mechanisms in PTAs. The most prominent issue is 'jurisdiction'. Generally, disputes arise because of ambiguous agreement interpretations, thereby giving rise to disagreements on whether the jurisdiction of which court or which tribunal applies in settling the case. Delayed decisions or conflicting judgments brought by conflicting interpretations of jurisdictional provisions delay the dispute settlement mechanism thereby making the procedure complex. 'Compliance' is another important problem. Even if issued by a panel, a decision might be inadequate enough to make member states to conform to the judgment. This could be due to different factors such as political stress in a country, the absence of an enforcement authority, or pressure due to economical stress. The least effective states often face numerous hardships enforcing compliance primarily because of their relative weakness and since they are economically disadvantaged. The other influential factor that operates in the realm of dispute settlement is 'Political influence'. Trade disputes often merge with other political interests, and hence, the neutrality of the dispute resolution process is compromised. States may seek more significant political benefits than merely abiding by the rule of law, and thus the mechanism for resolving disputes becomes weak. This is even further complicated by selective implementation, and relations between member states become strained.

2. Constraints in the Current Frameworks

Current frameworks of dispute settlement within PTAs also have constraints that characterize them and therefore hinder their effectiveness. One is 'the gap in legal provisions'. The majority of the agreements fall short in totally adequate legal regulations in their procedural features—for instance time limits within which adjudication will take place, conditions on which documentary or oral evidence are allowed, what appeal facilities exist. Because in their absence a lack of definiteness and vagueness would eventually result for anybody looking towards the rules, diverse components of the rules applied are likely to allow inconsistency and misuse/abuse as well. Another critical limit lies within 'the area of procedural inadequacies'. Some of these mechanisms may be too technologically complex for smaller developing countries to participate in disputes, especially if they lack relevant legal expertise or resources, which would enable them fully to engage in such process. Such countries may as a result not seek resolution of disputes or fully represent themselves in the process as others do, leading to unequal representation and outcomes as well. Global trade now evolves with new challenges such as those that may not sufficiently be addressed by existing frames. In addition, contemporary agreements have many issues such as digital trade, environmental standards, and labor rights, that are challenging most of the mechanisms of dispute settlement to apply such principles.¹⁸ The urgency in need of more dynamic and responsive processes of dispute resolution lies in the face-changing face of trade agreements. The role of the dispute settlement mechanisms in PTAs is very critical in solving the trade disputes; however, they face very serious challenges and limitations. Issues of jurisdiction, compliance, political influence, and procedural gaps should be addressed to improve the effectiveness of these mechanisms. Through recognition and mitigation of these challenges, policymakers can work toward creating more robust and equitable dispute settlement frameworks that promote fair trade practices and sustainable economic cooperation.

¹⁸ Chad P. Bown, *The WTO and Global Trade: A Path Forward* (Brookings Institution Press, 2021).

RECOMMENDATIONS FOR IMPROVEMENT

Several key legal improvements will have to be made to the PTAs in order to achieve the much more effective and efficient dispute settlement mechanism. Primarily, jurisdictional provisions need to be clearer: defining explicitly the scope of jurisdiction under dispute resolution mechanisms will prevent confusion and possible conflict over which bodies should receive certain disputes, cut delay, and increase the confidence of member states. In addition, mechanisms of compliance must be made stiffer for the efficient enforcement of the decisions of the panels. This would involve making the monitoring processes more stringent, which must include the aspect of compliance checks after certain intervals, timelines, and consequences in case one fails to comply. Inclusion of third-party monitoring would also be crucial for ensuring accountability and that indeed the member states are in good faith. Another vital factor in dispute resolution improvement is the procedure. Several present procedures are complex and lengthily involved, which causes deterrence to many participating individuals, especially those whose countries are small or of the developing world. Developing simpler procedures by creating speeded-up dispute resolution streams for certain cases makes a procedure more accessible and fast with quicker resolutions without unfairness. Legal frameworks therefore must be designed with adequate provisions toward enabling the flexibility to respond better to contemporary trade challenges. It requires mechanisms that adapt fast to new issues emerging, especially in areas as rapidly evolving as digital trade, data privacy, and sustainability. The ability to quickly change the process for dispute resolution may keep the agreements relevant and effective.

Transparency and stakeholder engagement in the process of dispute resolution can significantly enhance the mutual trust of member states among themselves. This can be achieved through case information being made accessible, such as the decisions of the panels and the rationale for making such decisions.¹⁹ Public consultations would allow the affected parties to share their perspectives, enriching the process and encouraging a sense of ownership. Building dispute resolution capacity in developing countries is important in ensuring equitable participation. Programs that are intended for training and equipping would allow these countries to participate

¹⁹ Claire E. Cutler, "Enhancing the Effectiveness of Dispute Settlement in Trade Agreements: Lessons from International Law", 9(3) Global Policy 401 (2018).

meaningfully in the dispute resolution process, therefore allowing them to voice their interests appropriately. As has been seen in the learning curve of successful PTAs, it gives one excellent insight into the future agreements being improved. For instance, the trade agreements in the European Union have shown it is much better to have an institutional framework for the settlement of disputes since that defines who does what, thereby contributing to the consistency and effectiveness of settlement. The fact that CPTPP prefers to settle by mediation and consultation has also been extremely helpful, for those initial steps provoke much discussion which usually settles much more quickly and amicably. Another major practice is the adaptability of the mechanism of dispute resolution. Very successful PTAs often included provisions for adjusting their processes with the changing trade dynamics. Agreements in the future should focus on flexibility and issue and concern resolution by interested stakeholders. This can be realized through review and updating mechanisms for the mechanisms of dispute resolution. Specialized panels on different types of disputes can enhance the quality of decisions. A panel that specializes in environmental disputes or intellectual property disputes may have more informed decisions on complex disputes.²⁰

Hence, it must be promoted that a compliance culture be in the member states. The agreements would have a common value regarding the observance of decisions, and states will begin to learn the value of compliance over the pursuit of cooperative trade relations. Hence, bringing above recommendations to reality, would be well-equipped by the policymakers to produce more robust as well as efficient mechanisms within the dispute settlement through PTAs.²¹ It means a development of such nature would definitely make the fair and equitable practices in conducting trade between countries as well as it would foster cooperation on other economic matters. All said and done, the real benefits of the framework with regard to better settlement will lead to more stability in the trade scenario as this will be better predictable as well.

²⁰ Arvind Subramanian and Shang-Jin Wei, "The WTO and Global Trade: An Empirical Perspective", 36(4) *Global Economic Review* 389 (2007).

²¹ Douglas McRae and C.E.P., "Rethinking the Dispute Settlement Mechanisms of Trade Agreements", 5(1) *International Trade Law & Policy* 45 (2019).

FUTURE TRENDS IN MECHANISMS OF PTAS TO SETTLE DISPUTES

This talks about how newer emerging technologies, like artificial intelligence, blockchain, and online dispute resolution, alter the mechanism to settle disputes in PTAs. Using the latest technology can make it more effective and transparent in trading dispute settlement by quicker mechanism. In this context, the online dispute resolution forums could shorten the time span in the resolution process as it has a clearer and refined way of handling disputes, mainly because it is quite faster compared to the existing global movement of trade. Regional cooperation in the study of deepening integration of PTAs and multilateral trade frameworks. Better processes of dispute resolution are among the advantages of regional cooperation, and the parties concerned may learn from each other's experiences. Best practices and common standards are some ways by which PTAs may make themselves more effective and credible. The chapter details how regional agreements may bring forth more coherent global systems of trade by having impacts on mechanisms of dispute resolution. It is also in the discussion of how the mechanisms for dispute settlement can be molded to address the more pressing global issues, such as climate change, health crises, and economic inequalities. With the new nature of global trade, there is an acute need for flexible and responsive dispute resolution processes to make sure that agreements on trade remain relevant and effective with the contemporary issues that face all member states. A third is an increasingly common expectation among stakeholders that disputes should be resolved in a more transparent way. Involvement of stakeholders in the dispute resolution procedures can build confidence and consensus among the most affected parties about a more environmentally friendly outcome. Obligations to provide clear reporting about the outcomes of a dispute and the strategies adopted for resolving the disputes can help future PTAs. This heavily enhances the perception of there being no bias and, above all, a surety that all will get a 'voice and heard'.²²

The influence of major powers in the economy cannot be overlooked in the geopolitical transitions and the nature of the PTAs. With complication in trade relations that can be a challenge for everyone to traverse, mechanisms that offer dispute settlement may be pressed further with diplomatic considerations now involved. This would then translate to more subtle

²² Joost Pauwelyn, "The Rule of Law in Trade Disputes: A Comparative Study", 48(4) *Journal of World Trade* 745 (2014).

understanding of how geopolitics influence trade disputes and results in their resolution. Such forces should thus be factored in as part of the vision of what mechanisms of the future should look like, as how to hold together even under changed political landscapes. The greatest influence is, however, from trade to digitalization. Digitalization is only expected to follow the fact that if more deals are transacted on the digital platform, then more kinds of disputes would be expected to follow the deal, with mechanisms for digital dispute settlement facing unique problems related to data privacy, cyber security, and intellectual property rights in digitally bound contexts. Such a shift in the dispute resolution framework that could tackle these unique issues will make PTAs relevant to technological change.²³

Not the least is the development of culture for compliance and respect over dispute resolution results. There is a reason good enough on which future PTAs have to build strategies for showing progress among member states about observance and enforcement of rulings to disputing parties. Therefore, the implications of non-compliance must be made more transparent by mechanisms of monitoring obedience. This can make PTAs more valid and effective and, thus, earn respect for their mechanisms of resolving disputes. Traditionally, the future of PTA's mechanism of dispute settlement will be seen in the light of technology, regional cooperation, and international challenges. All such processes should be merged with sustainability, transparency, complexities of digital trade, and geopolitics. With PTAs on the rise, the compliance and stakeholder engagement work undertaken by PTAs would continue to be of extreme importance to ensure that dispute resolution is made a robust and effective tool of international trade. These trends would ultimately make the trading systems more equitable, transparent, and robust all over the world in an attempt to make trade practices fall in line with the set of values and objectives of a society.²⁴

²³ RK. Gupta, "Digital Technologies in International Trade Dispute Resolution", 45 *Journal of International Trade Law & Policy* 123 (2020).

²⁴ John H. Jackson, *The World Trading System: Law and Policy of International Economic Relations* (MIT Press, 2000).

CONCLUSION

In conclusion, this is a very critical analysis that one needs to understand the operation of mechanisms for settling disputes arising in Preferential Trade Agreements. The complexity it reveals through such analysis helps in making comparisons of strengths and weaknesses between different such frameworks. These indicate that although the more robust and effective means of dispute resolution are introduced in some agreements, the common challenges of these such as jurisdictional ambiguities, compliance problems, and political pressures against them, do not bring out the expected effectiveness into these agreements. Procedural shortcomings become a limit for smaller and developing countries to participate actively in these processes of dispute resolution; hence, results are inequitable. The findings are that the one-size-fits-all approach is inadequate because mechanisms have to be sensitive to the distinct, unique contexts of various member states for fairness and accessibility.

The implications for PTAs in the future are immense. The nature of global trade will continue to grow and change, and mechanisms for the efficient settlement of disputes will have to evolve. It will not only be a life blood for settling disputes but also give member states confidence in the system. A well-designed mechanism for the settlement of disputes contributes toward greater predictability in the relations and encourages compliance with the agreements thus contributing toward an increasingly stable and just international trading environment. Such an eventuality therefore, demands an utmost concern by the policymakers to develop inclusive and responsive mechanisms for purposes of settlement of disputes catering to the increasing demand for an increasingly dynamic economic order. Further research would also very significantly amplify our understanding regarding improving dispute resolution in international trade agreements. Future researches will consider the possible effects of future trade problems related to digital economies and labor rights, among many other issues, on mechanisms related to current dispute efficiency. Analyzing comparative experiences in treaties from their resolution of dispute aspects would provide insight about observing the best practices possible for filling gaps. There, other than those experience stories, studies on how or what developing countries experience by taking up those mechanisms might produce fruitful information with regards to the obstacles with them effective engagement in such a balanced and justly placed trading system.

In summary, therefore, it is paramount that the mechanisms for the settlement of disputes in PTAs be strengthened to enhance the pursuit of fair and sustainable international trade. Lessons learned from the success models will help devise a more cooperative and resilient global trading system that would benefit member states but would also serve part of the greater quest of establishing equitable economic growth and development in the world. Not only does the call of time signify such all-round reforms in this respect, but it is quite essential to give future global trade.