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Construction of the Dispute Settlement Mechanism of the "Belt and Road" Initiative with Mediation as the Core

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Abstract: Under the background and trend of China actively promoting the " Belt and Road" initiative, disputes among enterprises related to cross-border investment have also shown a rapidly growing trend. Therefore, it is of great significance to establish a dispute settlement mechanism for the "Belt and Road" initiative which adapts to the national conditions of each country and meets the interests of Chinese enterprises and those in the countries along the "Belt and Road" initiative, and ultimately promotes friendly and trusting relations between China and the countries along the "Belt and Road" initiative as well as between enterprises from the two sides. However, there are still many inconsistencies among the academic community as to how to establish the dispute settlement mechanism. Therefore, this research will study the dispute settlement mechanism with the purpose of dispute settlement and explore the solutions of the dispute settlement mechanism with mediation as an important component, in order to achieve the purpose of friendly and peaceful cooperation between countries.

Keywords: Mediation, Belt and Road Initiative, Dispute Resolution Mechanism.

1. Introduction

On 26 September 2022, a company located in Qingdao, China concluded a contract with the Company of the Republic of Kazakstan for the sale and purchase of goods, and according to the contract made an advance payment of USD 228,800 to the Company of the Republic of Kazakstan. However, the Company of the Republic of Kazakstan failed, for any reason, to fulfill its obligations to deliver the Product in accordance with the Contract. A dispute arose between the Parties over the refund of the advance payment, and after consultations the Parties could not reach an agreement on the amount to be refunded and the time of performance of the Contract. On June 6, the Qingdao enterprise, as the petitioner, submitted an application for mediation to the Belt and Road International Commercial Mediation Centre (hereinafter referred to as the "Mediation Centre"), requesting the Mediation Centre to mediate the dispute between it and the Respondent, the Republic of Company of Kazakstan, regarding the refund of the advance payment under the contract. Upon receipt of the application for mediation, the secretary for mediation consulted the contract in question concluded by both parties and other relevant documents to understand the basic facts. Subsequently, the secretary for mediation requested a Kazakh mediator to participate in the mediation. The Kazakh mediator, on the basis of the contract signed by the two parties, fully explained to the representative of Company of Kazakstan the specific situation of the dispute, conveyed the basic claims of Qingdao Company, and conducted

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patient analysis of the actual conditions of the two parties. In the end, the Company of Kazakstan agreed to resolve the dispute peacefully. The parties reached a settlement agreement, under which the Company of Kazakstan agreed to refund to Qingdao Company US $227,795 [1]. This case is a typical type of international trade contract disputes. Specifically, the foreign mediators appointed by the Mediation Center to resolve disputes by means of mediation not only save a lot of time and money for the parties and maintain the good cooperation between the parties, but also save the judicial resources for the court, which has played a good exemplary effect and provided an effective reference for the dispute resolution of foreign-related cases. Thus, in order to face the increasing number of international trade disputes relevant to the Belt and Road Initiative (hereinafter referred to as "BRI"), the mediation-centered dispute resolution mechanism should be considered by China and countries along the Belt and Road, and improvements should be made to the existing mechanism, so as to complete the dispute resolution at minimum costs, and maintain good cooperation between enterprises of different countries.

2. Research Methods

Based on the research results of Wang Guiguo, Liu Jingdong, etc., this article will discuss the shortcomings of the existing international commercial dispute resolution mechanism and ways to improve such mechanism, with analysis and discussion, and explore to establish a dispute resolution mechanism , with mediation as an important part.

3. Literature Review

3.1. Conflicts between the BRI and Traditional International Dispute Settlement Mechanisms

In the process of building the BRI, conflicts between the BRI and traditional international dispute resolution mechanism mainly arise in the aspects of ideas, cultural and legal background, limitations of dispute resolution methods, insufficient enforcement of mediation agreements, and the lack of connection between mediation and arbitration. Pointed out by Qi Zhuang, the complexities of the BRI can't be effectively dealed by the traditional dispute resolution mechanisms such as litigation and arbitration, due to the number of countries involved and the differences in cultural and legal backgrounds [2]. He pointed out that the mediation system has its cultural advantages and is an efficient and convenient way to resolve disputes, but in China, the settlement agreements prepared by the commercial mediation institutions are not enforceable and the enforcement is mainly guaranteed by the litigation or arbitration proceedings, which is not conducive to the development and improvement of the mediation system.

Yang Peng mentioned that the connection between ASEAN-involved commercial mediation and arbitration in China still suffers from inadequate top-level design, and the absence of international commercial mediation laws [3]. In practice, the connection between commercial mediation and arbitration is not very operable, and the review standards for the validity of mediation agreements and liabilities for malicious mediation are not clear.

Liang Yong stressed that the current International Investment Dispute Settlement (ISDS) faces the contradiction between the system demand and system supply in the process of the BRI [4]. She believed that in the face of the changes in China's relationship with the United States, the EU and other major partners, the economic and trade cooperation between China and the Belt and Road countries has become more important and urgent. However, most of the BRI investments involve high risks and lack well-established legal tradition. If Chinese investors frequently file disputes, the foundation of cooperation will inevitably be eroded.

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3.2. Concepts and Principles that Should be Abided by in the BRI Dispute Resolution Mechanism

Wang Guiguo put forward that since the BRI is a trans-century project, it is necessary to develop a corresponding dispute resolution mechanism and strictly implement relevant judicial principles [5]. However, Liu Jingdong said that in this process, China should play a leading role and provide judicial services and protection experience, including judicial reciprocity, the application of international treaties and foreign laws, and judicial support to international arbitration [6]. Wang Qing believes that the BRI dispute resolution mechanism should adhere to the principles of openness, inclusiveness, mutual benefit and win-win, and establish an ADR dispute resolution system focusing on mediation [7].

With respect to the resolution of international civil and commercial disputes, Yuan Faqiang believes that countries along the Belt and Road should jointly participate in the establishment of a new type of international civil and commercial dispute resolution mechanism and, from the perspective of equality and friendship, start with various methods such as providing judicial assistance to each other, mutually recognizing and enforcing civil and commercial judgments, establishing mutually recognized commercial arbitration institutions and joint arbitration, and establishing regular intergovernmental consultation mechanisms, and take steps of "bilateral first and multilateral later [8]. Liang Yong believes that the advantage of the mediation mechanism lies in its non-confrontational nature and the autonomy of the parties' will, which is conducive to reducing the confrontation between the parties [4]. Therefore, the new type of dispute resolution mechanism should consider the integration of the BRI cooperation model with the mediation mechanism, respect the interests of multiple parties, and seek the greatest common divisor of all parties.

3.3. Specific Plans for Establishing the BRI Dispute Resolution Mechanism with Mediation as an Important Part

Ma Yawei and Qi Tong believe that the establishment of new private arbitration institutions should not be supported [9]. It is important to establish the dispute resolution mechanism for the BRI that it should diversify the resolution methods, cover and support multiple resolution methods, including consultation, mediation, arbitration and litigation, and support private arbitration institutions simultaneously while encouraging the establishment of official arbitration institutions. Ma Yawei and Qi Tong believe that we should establish a special investment dispute resolution center for the BRI through the establishment of international organizations and other methods, adhere to the combination of consultation, mediation and arbitration, give play to the dominant position of China, integrate eastern culture and China's elements of dispute resolution, follow the trend of the reform of investment arbitration, and integrate reasonable elements of reform [9].

Jiang Decui and Wu Jianwei put forward specific proposals on establishing the investment dispute mediation mechanism for the BRI, including the establishment of permanent bodies, mediation intervention time, mediator's qualification, selection and appointment, time limit of mediation, mediation confidentiality and exceptions, and enforcement of mediation [10]. They believe that in order to effectively resolve investment disputes between foreign investors and host states of the BRI, the BRI Investment Dispute Mediation Convention (hereinafter referred to as the "Convention") may be jointly formulated to establish an operational and enforceable investment dispute mediation mechanism.

Wang Qing suggested that through concluding ADR agreements, diversified procedural rules including consultation, mediation and expert groups should be established, as well as contact points in the Participants, as well as relevant supporting mechanisms such as relevant service and information sharing mechanisms, risk assessment, early warning and reporting mechanisms should

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be established [7]. He believed that the establishment of these mechanisms will promote the long-term maintenance of economic and trade relations among the participants, and be more consistent with the philosophy of the BRI.

3.4. Summary

One point repeatedly emphasized in the above article and important for establishing the dispute resolution mechanism is that the legal principles relating to the BRI should be diversified, which should not only comply with the common understanding of the international community, but also take into account differences between local laws of countries along the Belt and Road as well as differences among different legal systems. By promoting the combination of the two and establishing specific legal provisions for dispute settlement for companies in countries along the Belt and Road, a unified and independent legal system will exist, which will avoid the occurrence of excessive and meaningless conflicts of laws in dispute settlement.

4. Issues Related to the Establishment of a Dispute Settlement Mechanism under the the BRI

4.1. Conflicts between the BRI and Traditional International Dispute Settlement Mechanisms

The BRI is a broad economic cooperation framework involving many countries and regions. It not only involves cooperation in the economic field, but also political, legal, cultural and other aspects. With the continuous promotion of the BRI, economic and trade ties among participating countries become closer and closer, and the resulting international commercial disputes are also showing a trend of diversification and complexity. At present, the approaches to resolving international commercial disputes mainly include international commercial arbitration, international investment arbitration and dispute resolution through international courts or regional courts. Although they provide methods to solve international disputes to some extent, they conflict and do not match with the needs of the BRI to a certain extent. For example, international commercial arbitration proceedings may be time-consuming and expensive with insufficient enforcement of awards. International investment arbitration rules may be plagued by problems such as a lack of transparency and inconsistencies in rulings. International investment arbitration overemphasizes protection of investors' interests, sometimes ignoring the public interests and policy space of the host country, which leads to a mood of resistance against the arbitration mechanism in some countries.

There are certain limitations in resolving cross-border disputes through domestic courts. Firstly, legal systems and judicial procedures of different countries may differ greatly, which may lead to different handling and rulings for the same factual and legal issues. Secondly, cross-border judicial assistance often faces various obstacles, such as issues of judicial sovereignty, application of law, recognition and enforcement of judgments, which make cross-border litigation complicated and time-consuming. In addition, domestic courts may lack sufficient expertise and experience in handling commercial disputes involving international factors.

Given the number of participating countries involved in the BRI, the traditional mechanisms may not fully take into account the diverse legal systems and cultural backgrounds of countries along the Belt and Road, and as a result, the solutions may not be fair or acceptable. In addition, some traditional mechanisms may be too partial to legal practice of certain countries or regions to ensure neutrality and impartiality, which is a challenge for the BRI which emphasizes equality and cooperation.

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4.2. Concepts and Principles That Should Be Abided by in the Dispute Resolution Mechanism of the BRI

In view of the limitations of existing international dispute resolution mechanisms, it is necessary for China to lead and promote the establishment of a diversified dispute resolution mechanism with Chinese characteristics, to better meet the special needs of the BRI. The construction of the dispute settlement mechanism with characteristics of Chinese culture, in which "peace is precious", will ensure that the mechanism better meets the actual needs of the BRI, and is more efficient and impartial, and can fully reflect the interests and concerns of China and countries along the Belt and Road.

In establishing the mechanism, the principle of win-win cooperation should be fully implemented, so as to ensure that participating countries are treated equally and their legitimate rights and interests are fully protected in the dispute resolution process. This not only embodies China's cultural characteristics of "peace is precious", but also ensures that the common interests of all countries in the BRI are respected and safeguarded.

Second, given the diversity of legal systems and cultural backgrounds of countries along the Belt and Road, the mechanism should be designed to respect and accommodate this diversity. This will help to ensure that the dispute resolution mechanism is more responsive to the actual needs of countries, and more efficient and fair.

At the same time, the mechanism should emphasize flexibility and forward-looking, not only to resolve current disputes, but also to prevent problems that might arise in the future, so as to achieve the long-term goal of dispute resolution. Such forward-looking should mainly be reflected in improvements and innovations of existing dispute resolution models.

The mechanism should guarantee the transparency of the dispute resolution process and ensure that all participants are treated fairly. The principles of transparency and fairness help to enhance the authoritativeness and enforceability of the dispute resolution results, and provide a solid legal guarantee for the realization of long-term peace and common prosperity of the region.

In addition, the mechanism should advocate respect for the rule of law, ensure that the dispute resolution process is conducted strictly in accordance with international laws and rules, and enhance the authoritativeness and enforceability of the dispute resolution results. This requires that during the operation of the mechanism, the legal framework for dispute prevention and resolution shall be established and improved, including but not limited to the establishment and operation of international commercial courts, international commercial expert committee and other institutions, as well as the amendment of relevant laws and regulations, so as to provide a solid legal basis for the development of the BRI.

The implementation of these concepts and principles can promote international cooperation in the development of the BRI, and provide a solid legal guarantee for the realization of long-term peace and common prosperity of the region.

4.3. Specific Plans on Building a Dispute Resolution Mechanism for the BRI with Mediation as an Important Component

In advancing the BRI, it is essential to build an efficient, fair dispute resolution mechanism that adapts to a multi-cultural background. Mediation, as a more flexible and economical way to resolve disputes, has great potential to be applied in the BRI. Establishing mediation as an important part of the dispute resolution mechanism for the BRI not only aligns with the concept of promoting harmonious coexistence of countries along the Belt and Road, but also is the critical step to achieve mutually beneficial and sustainable development. We encourage dispute resolution through mediation,

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consultation and other methods, and at the same time enhance the legal effect of these methods to resolve disputes and promote the use of mediation to resolve disputes.

In order to deepen the development of the dispute resolution mechanism for the BRI with mediation as an important part, specific plans should be developed from the following aspects:

First, establishing permanent mediation institutions. In order to ensure the professionalism, authoritativeness and continuity of the mediation work, it is recommended to establish one or more international permanent mediation institutions as the core platforms for dispute resolution for the BRI. These institutions may rely on existing international organizations or be co-funded by participating countries, with the aim of providing neutral and convenient mediation services for investors, enterprises, and cooperation projects among governments worldwide. Institutions should set up a management committee with members from different countries and regions so as to ensure the pluralism and representative nature of the decision-making process. Meanwhile, institutions should formulate clear operating rules and procedures to ensure the transparency and efficiency of the mediation process.

Secondly, unified mediation rules and procedures shall be formulated. Given the big differences in legal systems of countries along the BRI, it is particularly important to formulate a set of broadly accepted and relatively unified mediation rules. These rules should cover key aspects such as basic principles of mediation, standards for selection of mediators, initiation and conduct of mediation procedures, form and content of mediation agreement and sharing of mediation costs. In the process of formulating these rules, it is imperative to fully consider the legal traditions and practical habits of countries along the Belt and Road and absorb advanced experience in international mediation rules to ensure compliance with international practice and characteristics of the BRI. In addition, the rules should clarify the basic principles such as the voluntariness and confidentiality of mediation and non-mandatory results so as to protect the legitimate rights and interests of the parties.

Third, strengthening the professionalism and neutrality of mediators. Mediators' professionalism and neutrality are directly related to the quality and effectiveness of mediation. Therefore, we should establish a strict selection and training system for mediators to ensure that mediators have solid legal knowledge, rich mediation experience and good cross-cultural communication skills. Mediators should come from different countries, with multi-cultural backgrounds, and be able to understand and respect the cultural and legal differences of the parties. Meanwhile, we should establish and improve the code of conduct for mediators, and expressly prohibit conflict of interest and bias to ensure the neutrality and fairness of the mediation process.

Fourth, establishing a mechanism to connect mediation with arbitration and litigation. To make the mediation mechanism more attractive and effective, we should establish a mechanism for smooth connection between mediation and arbitration as well as litigation. On the one hand, the parties are encouraged to choose arbitration as the follow-up resolution method if mediation fails and the arbitration procedure can be activated quickly through the arbitration clause in the mediation agreement or the arbitration agreement reached after mediation. On the other hand, efforts should be made to explore and establish the system of confirmation of mediation results in the litigation, and the mediated agreement may be rendered enforceable under certain conditions, so as to reduce the waste of judicial resources and improve the dispute resolution efficiency.

Fifth, promoting the international implementation of mediation agreements. The international implementation of mediation agreements is an important part for the establishment of the BRI dispute resolution mechanism. It is imperative to actively promote international recognition of and cooperation with the mediation agreement enforcement mechanism and clarify the legal status and procedural requirements for cross-border enforcement of mediation agreements through multilateral or bilateral agreements. Meanwhile, courts of various countries are encouraged to accord due respect and support to mediation agreements in the judicial review process, so as to ensure the effective

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implementation of the mediation results and enhance the authority and credibility of the mediation mechanism.

Finally, it is imperative to strengthen international legal cooperation and exchange. Strengthening international legal cooperation and exchange is the key to improving the effectiveness of the dispute resolution mechanism of the BRI. We should organize activities such as international seminars and training courses on a regular basis and promote exchanges and cooperation between countries along the Belt and Road in aspects such as legal personnel cultivation, mediation system development and case studies. At the same time, we should strengthen contact and cooperation with relevant international organizations, jointly promote the improvement of mediation rules and the development of international mediation standards, and provide strong international support to the dispute resolution mechanism of the BRI.

5. Conclusion

As the BRI is a cross-border economic cooperation initiative, the dispute resolution mechanism of the BRI needs innovation and adaptability. Traditional international dispute resolution mechanism may not meet the needs of the BRI in some aspects, therefore, it is particularly important to establish a dispute resolution mechanism with mediation as the core and in line with the spirit of the BRI. Such a mechanism will not only resolve disputes in an efficient and convenient manner, but also promote the mutual trust and cooperation among the participating countries, which will provide a solid legal guarantee for the construction of the BRI. We look forward to further maturing and improvement of the dispute resolution mechanism of the BRI in the future, so as to contribute to the reform and improvement of the global economic governance system.

References

[1] *Personal Debt and Financial Dispute Rule of Law Research Center. (2024) Annual Observation of Commercial Mediation in China. Retrieved from https://www.nwupl.edu.cn/xbzf/rdxw/126099.htm.*

[2] *Qi Zhuang. (2017) Research on international Commercial Mediation and Conciliation in the Construction of the Belt and Road Initiative. Zhongzhou Journal of Learning, 11, 61-66.*

[3] *Yang Peng. (2022) Research on the Convergence of China's ASEAN-related Commercial Mediation and Arbitration in the Construction of the Belt ad Road Initiative. Guangxi Social Science, 3, 71-77.*

[4] *Liang Yong. (2022) Research on China Factors in the Construction of Dispute Settlement Mechanism for the Belt and Road Initiative. Fudan International Studies Review, 1, 226-250.*

[5] *Wang Guiguo. (2017) Research of the Dispute Settlement Mechanism of the Belt and Road Initiative. China Legal Science, 6, 56-71.*

[6] *Liu Jingdong. (2017) Building a Fair and Reasonable Dispute Settlement Mechanism for the Belt and Road Initiative. Journal of Pacific. 25(05), 13-22.*

[7] *Wang Qing. (2020) Construction of ADR System for Economic and Trade Dispute Settlement of the Belt and Road Initiative. Law of Hebei Province, 38(08), 115-124.*

[8] *Yuan Faqiang. (2018) Construction of International Civil and Commercial Dispute Resolution Mechanism under the Belt and Road Initiative. Journal of Truth Seeking. 45(05), 82-90.*

[9] *Ma Yawei, Qi Tong. (2018) Construction of Investment Dispute Settlement Mechanism for the Belt and Road Initiative. Research of International Commerce. 39(05), 85-96.*

[10] *Jiang Decui, Wu Jianwei. (2024) Exploration of Construction of Investment Dispute Settlement Mechanism for the Belt and Road Initiative. International Trade, 4, 64-71+96.*