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The Role of Arbitration and Mediation in Resolving International Trade Disputes

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***Abstract*:** The mechanism of using arbitration and mediation in the settlement of international trade disputes. They give information on arbitration and mediation, the rules of enforcing them in the international level, and the efficiency of the mechanisms above the procedure of litigation. It deals with the international aspect and does not explore the specifics of national legislation regarding arbitration and mediation arrangements. It also introduces modern changes adding to the efficiency and applicability of arbitration and mediation in the sphere of inter entrepreneurships trade. For example, the new online dispute resolution procedures envisaged by the EU-ICC and the ICC court rules are a more convenient and faster option than a trial that is only suitable for legal matters that are not very complicated and where the amount at stake is small. While these measures are directed towards the enhancement of the existing model for the resolution of disputes through litigation, they may result in the overcrowding of the scene. Thus, the present work aims to promote the systems of arbitration and mediation as traditional and effective methods that should be used at the international and non-equivalent levels for enterprises and judicial officers' benefits.

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***Keywords*:**
Arbitration, Mediation, Resolution Mechanism, Trade Disputes

1. Introduction to International Trade Disputes

International trade refers to the exchange of goods and services across national borders. International trade encompasses the export and import of commodities, as well as capital flows, foreign investments, and the cross-border movement of individuals for business purposes. It plays a crucial role in the world economy, facilitating economic growth, job creation, and technological advancement. International trade disputes arise when parties disagree about a contract, whether because one believes the other party is not honoring the terms or because both disagree about the interpretation of the contract. Disputes in international trade arise for a variety of reasons, such as cultural differences, different interpretive approaches, and different legal frameworks. In order to address these disputes, it is necessary to resort to effective dispute resolution mechanisms such as arbitration and mediation (Calhoun, 2018).

In today's complex and ever-changing global economic landscape, the process of going global poses both challenges and opportunities for meeting new market demands and developing new sources of economic growth and employment. However, the international business environment is also rife with risks that can hinder the achievement of these objectives. Increased competition, macroeconomic imbalances, currency fluctuations, terrorism, changes in foreign investment policies, and

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political instability are just some of the risks that can affect the success of overseas ventures. It comes as no surprise then that, in the absence of established and strong institutional frameworks and rules, international trade disputes and disagreements occur not only in hard commodity markets, such as oil and metals but also in soft commodity markets such as food staples, agricultural produce, and other raw materials (Strong, 2016).

1.1 Definition and Types of International Trade Disputes

International trade can be defined as the trade of goods, services, capital, and labor across national and cultural boundaries. International trade can take place either in a bilateral or multilateral framework as shown in Fig. 1. International trade disputes refer to conflicting claims originating from transactions and dealings between parties in different countries participating in foreign trade. International trade disputes can be a broad category of financial, commercial, legal, contractual, and other types of trade conflicts (Calhoun, 2018). Generally, there are three common types of international trade disputes in respect of foreign direct investments, disputes relating to the international business transactions, and disputes relating to the commercial transactions and contracts of sale in international trade (Strong, 2016).

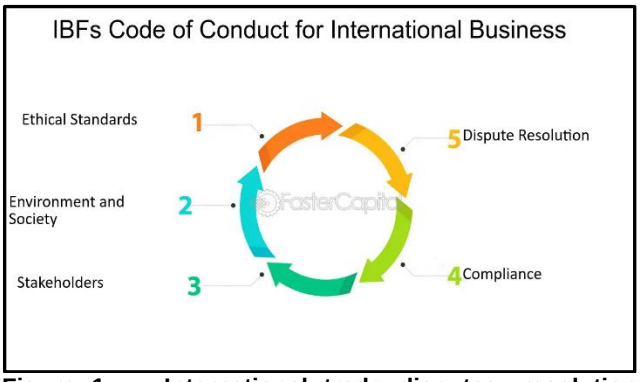

Figure 1. International trade disputes: resolution mechanisms

2. Arbitration as a Dispute Resolution Mechanism

Arbitration is a form of alternative dispute resolution that has gained popularity in recent years as a means of settling international trade disputes. Arbitration provides an alternative to litigating in a country's courts, with the tribunal consisting of one or more independent persons selected by the parties themselves. The decision made by the tribunal, known as an award, is final and binding 1. The conduct of arbitration is governed by rules agreed to by the parties or by ad hoc rules such as the UNCITRAL Arbitration Rules or the UNIDROIT Principles, both of which are available for use whether arbitration takes place at the international or domestic level. Arbitration is a private and confidential procedure, unlike litigation, which is a public process. Unlike in litigation, the procedure and rules of evidence in arbitration are flexible and may be adapted to the needs of the parties. In addition, many major trading nations recognize and have enacted the 1958 Convention on the Recognition and Enforcement of Foreign Arbitral Awards, also known as the New York Convention, under which awards made in one country may be enforced in another. As at the end of 2004, there were 139 parties to the New York Convention (Strong, 2016).

There are a number of reasons why parties may prefer arbitration to litigation. Arbitration is generally quicker and cheaper than litigation, arbitration awards are readily enforceable usually in more than 135 countries around the world, the parties have a choice in the selection of the adjudicator, parties may prefer arbitration to litigation because of the confidentiality of the arbitral process, and for international disputes, the neutrality of the arbitration tribunal is an important consideration. Arbitration enables parties from different cultures to have their disputes resolved by means of a tribunal comprised of persons having an understanding of their cultural backgrounds.

2.1 Principles and Advantages of Arbitration

There are three key principles which underpin arbitration: the principle of competence-competence; the principle of party autonomy; and the principle of finality and exclusivity. The principle of party autonomy is defined by the freedom contours of the parties' intentions. The principle of finality and exclusivity relates to the limited scope for court review of awards. All three principles are integral to arbitration being a distinct and effective means of dispute resolution in respect of international trade.

There are specific advantages associated with arbitration. Some of these advantages are context-specific. For instance, arbitration may be more advantageous than litigation when parties are from different legal traditions, as the proceedings are more neutral, formalism in approach is less acute than in countries adhering to a civil law system, and commercial arbitration is premised on a more business-oriented approach to disputes than other forms of dispute resolution (Calhoun, 2018). On the whole, arbitration is a more advantageous means of dispute resolution relative to litigation for international commercial disputes, as it is less formalistic, tends to have a very limited scope for court review of awards, is faster and less expensive in full proceedings, is more likely to lead to the enforcement and collectability of awards, and mitigates overall risk.

3. Mediation as a Dispute Resolution Mechanism

Mediation is another method for resolving disputes arising out of international trade. Under mediation, the

parties to the dispute submit their dispute for consideration to an independent third-party expert who makes his recommendations for a settlement of the dispute. He is usually an expert in the subject matter of the dispute. Mediation is usually an informal process and is less expensive. The process of mediation commences with the appointment of a mediator by the parties (or by agreement through an arbitration clause). Sometimes the concerned body, such as an arbitral institution, appoints the experts.

The mediator interacts with the parties to understand the nature of the dispute and, if the parties are in agreement, brings them together to consider a proposal for a settlement. Mediation is non-adversarial and seeks to promote reconciliation between the parties. The success of this approach depends upon the goodwill of the parties to reconcile their differences and work towards an amicable settlement (Strong, 2016). However, in many instances, parties resort to adversarial dispute resolution (negotiation/litigation). Mediation is officially recognized by several legal systems and has been enacted into law in various countries (Award No. 425-39-2, 1981). It is also accepted by some arbitral institutions as a preliminary to arbitration.

Some of the fundamental principles underlying mediation are as follows:

- Mediation is consensual and requires the willingness of both parties to participate (and usually to compromise) in the dispute resolution.
- Mediation is a process managed by the parties with the active assistance of a mediator. A mediator does not impose a settlement or recommend that a particular proposal be accepted.
- Mediation is private and confidential. It is a process conducted behind closed doors, and anything said or written during the mediation cannot be produced in evidence in any subsequent proceedings.
- Mediation is without prejudice. Generally, anything said or written during the mediation cannot be used against a party in subsequent proceedings.

3.1 Principles and Advantages of Mediation

Several principles of mediation are recognized worldwide. One fundamental principle is that mediation shall be conducted impartially and in good faith, considering the different power positions of parties and the difficulty in providing objective views, especially to weak or disadvantaged parties (Award No. 425-39-2, 1981). Another basic principle holds that a mediator may not disclose any information gathered from one party to other parties without that party's consent and only submit proposals that are acceptable to all parties in mediation. It is also emphasized that efforts to mediate trade disputes shall be kept confidential and without prejudicing any future proceedings before tribunals or courts. Mediation shall consider the interests of all parties and the appropriate use of the relevant resources. Conducting mediation will depend upon the willingness of both parties and the discretion of the mediator. The effectiveness of mediation shall also depend upon making a reasonable investment in time and resources depending on the value and complexity of the dispute (Strong, 2016).

A good mediator may be able to calm parties and help them resolve their animosities in order to address the principal contested matter. Motivated neither by anger nor frustration, mediators may be able to help the parties appreciate more fully the different perspectives and consequences that aggravating the dispute might have. The costs of continuing in the present way might be more than anticipated, and some options for a settlement that had not been considered appear reasonable. In addition, in mediation, sympathies and hostility may be negotiated in such a way as to improve the chances of pragmatic agreement. Moreover, good mediation may lead to the world being viewed in a different way. For instance, the parties involved in a dispute may see themselves not only as parties to a dispute but also as trade partners who can benefit from establishing better commercial relationships if their interests should be appraised in greater depth. Another advantage is that mediation places dispute resolution in the hands of parties themselves without the risk of an uninformed decision being imposed from outside.

4. Comparison of Arbitration and Mediation in Trade Disputes

Despite significant differences, both methods of dispute resolution have much in common. Both approaches focus on the negotiation process instead of on the evidence. The parties retain the most control over the process and its outcome (Award No. 425-39-2, 1981).

Table 1. The thick line between mediation and arbitration

Resolution Method	Informal Discussion	Formal Negotiation	Mediation	Adjudication and Arbitration	Litigation
• Who is involving?	• Parties	• Parties, representatives	• Parties, representative's mediators (3rd party neutral)	• Parties, representative's arbitrator (3rd party neutral)	• Parties, representative's judge
• Decision making power	• Parties	• Parties	• Parties	• Arbitrator (contractually appointed)	• Judge (state appointed)

After the procedures, a settlement agreement or award is often drafted and signed by the parties, creating a contract enforceable in court (Strong, 2016).

In contrast, the two mechanisms are also very different. Arbitration is a process which leads to a binding award made by a qualified adjudicator possessed of formal powers and expertise. The mediated settlement agreement has only the binding quality of a contract based on the mutual consent of the parties. Cricket is as much a game as rounders. But it cannot be taken for one or the other. Arbitration, unlike mediation, has a formal staged process with rules that must be followed. It determines who wins and who loses when parties cannot agree amongst themselves. Mediation, on the other hand, looks for the basis for compromise and non-judgmental facilitation. Each party may hire a pair of representatives, preparing the case, negotiating or dealing with a mediator. The techniques and tactics used are as varied and complex as in the case of court actions. But still, mediation leaves room for a more flexible synthesis than the arbitration model for conflict resolution as shown in Tabel 2.

Table 2. Arbitration vs. mediation

Type	Arbitration	Mediation
• Confidentiality	• Yes	• Yes
• Formal/informal	• Formal	• Informal
• Legally binding	• Yes	• Process no - settlement agreement – yes
• International enforcement	• Yes – through NY convention	• No – jurisdiction specific
• Goal	• Decision on a dispute	• Resolve misunderstandings
• Mandatory	• By agreement	• By agreement
• Instead of litigation trial	• Yes	• No
• Decision maker	• Arbitrator	• Mediator
• Governing law	• Arbitration Act 1996	• Civil procedure amendment rules 2011

4.1 Key Differences and Similarities

Trade disputes can be resolved by arbitration or mediation as alternatives to litigation. While only arbitrators render an award, in mediation the third party is not a decision maker (Award No. 425-39-2, 1981). That is, in arbitration the decision is imposed upon the parties, while mediation is concerned with the voluntary agreement of the disputants. Nevertheless arbitration and mediation share many amicable traits, as both procedures take place before a third party and frequently continue (not always) in the form of written communications. After exploring the definition of mediation and understanding the diversity of its forms, the differences and the similarities between mediation and arbitration will be discussed.

Mediation is a flexible and adaptive process where the parties bind themselves to reach an amicable settlement of the differences on a commercial basis with the assistance of a third party. The third party assists the parties in understanding their differences, assessing them, seeking a settlement and drafting it in writing. Mediation has many forms. In interest-based mediation, the objective is to resolve the dispute according to the interests of the parties and not on the basis of rights, duties or allegations of wrong-doing. Interest-based mediation forms part of the broader interest-based problem-solving approach to prevention and resolution of conflict, elaborated by Fisher, Ury and Patton in their 1981 book, Getting to Yes. Interest-based mediation is the form of mediation which is best known outside the legal community.

5. Legal Framework for Arbitration and Mediation in International Trade Disputes

Disputes between international traders relating to goods and services are an inevitable consequence of trading in a globalized economy. Traders who engage in foreign trade must have a system of redress enabling their disputes to be resolved adequately. As stated by its proponents, mediation is attractive because it has a “high rate of settlement,” sometimes exceeding eighty percent, and settlements are achieved quickly, usually within a matter of weeks after filing (Strong, 2016). Mediation is a viable alternative to arbitration in the international trade sphere. Mediation is not an alien word, and even in ancient times, trade disputes were redressed by conciliation before respected merchants. Conciliation is a process in which an impartial dispute resolution expert examines the facts and issues of a disagreement between parties to a dispute, understands their position and viewpoint, and assists them to agree on how to resolve their differing positions voluntarily amicably. Mediation is a natural progression of conciliation. Both involve similar techniques. However, a mediator (unlike a conciliator) only joins the negotiations on behalf of the respective parties to the dispute and only suggests a solution (rather than a set of proposed solutions, like a conciliator). Mediation is quasi-judicial because the parties have full control over the proceedings and the acceptance of any proposal advanced.

The Geneva Protocol on Trade Mediation was the first international treaty relating to trade mediation. It was adopted by the League of Nations in 1923 but never came into force (PCA, 1976). The Geneva Convention on Trade Arbitration creates a Trade Arbitrators’ Court administrated by the International Labor Office. This Convention never gained acceptance from the traders’ circles and consequently, was ineffective (also due to the Solution of the 2nd World War). In the post-World War II period mediation came back to life in the form of Conciliation and Arbitration Rules of the United Nations Economic

Commission for Europe adopted in 1956, but few disputes were ever brought under its provisions, partly because the traders considered it to be a much too formalized, cumbersome and possibly politicized procedure as shown in Fig. 2.

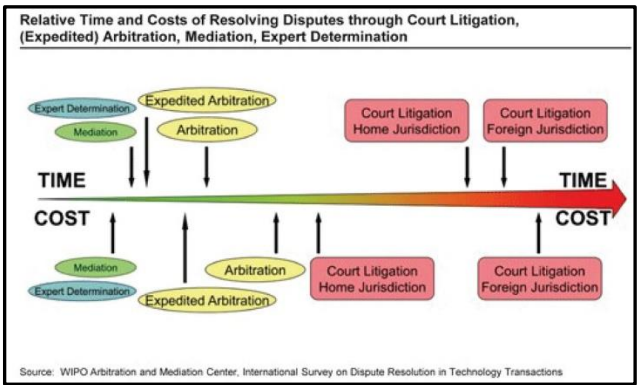

Figure 2. Mediation 101 for the dredging industry

5.1 International Conventions and Treaties

The legal framework for arbitration and mediation in regulating international trade disputes is set up legitimately through different international conventions and treaties. Though not exhaustive in nature, the following conventions, treaties etc. are considered the cornerstone of regulating arbitration and mediation in international trade disputes.

The United Nations Convention on Conciliation and Arbitration March 8. 1980 (the "UN 1980 Convention"): The Convention seeks to afford parry convened conciliation and arbitration in relation to disputes arising out of international trade or commercial relations, or certain matters connected therewith involving parties of different countries for removal of trade barriers, or the establishment and development of joint ventures or co-operative arrangements in relation to trade or commerce between different countries 5. The United Nations Convention on Recognition and Enforcement of Foreign Arbitral Awards signed June 10, 1958 (the "New York Convention"): The Convention has been signed and ratified by 143 countries. The Convention is applied to the recognition and enforcement of both arbitral awards and arbitration agreements arising out of commercial legal relations of different countries (Strong, 2016). It is further provided that approaches China with a view to seeking a resolution to Trade Disputes shall be in accordance with the Procedures contained in the ICAM. If succinct, Trade Disputes are to be resolved by way of mediation and failing settlement, by being dealt with through arbitration, unless otherwise agreed.

6. Case Studies of Successful Arbitration and Mediation in Trade Disputes

One case study that exemplifies the successful use of arbitration in resolving international trade disputes is the United States' dispute with the European Union over subsidies for aircraft manufacturers Boeing and Airbus. This case was brought to the World Trade Organization (WTO) in 2004, and after a lengthy investigation, the WTO found that both sides were providing illegal subsidies to their respective companies. As a result, aircraft produced by Boeing received around $20 billion in federal subsidies, while Airbus was provided with $180 billion in European government funding (Akseli, 2017).

In an effort to bring the dispute to a resolution, the WTO authorized proportionate retaliations of $7.5 billion by the United States and $4 billion by the European Union. The parties then turned to arbitration, the procedures for which were also established in the General Agreement on Trade in Services Annex on Financial Services. Under this agreement, WTO members (and developing countries) are encouraged to choose mediation over adjudication, as this provides additional protections for the developing nations and is less costly. From November 2010 to December 2015, the case progressed, but the efforts were stymied by China vetoing many candidates, and mediators could not reach a final solution. In December 2015, at a meeting in Nairobi, the parties agreed to use arbitration and the WTO doubled down on the attempts to radically reform itself by looking to improvements to the advisory body and in the arbitration procedures. The process has gone on since then (Strong, 2016).

The detailed account of how arbitration was used in this dispute shows that arbitration is a very useful mechanism for countries to find common solutions to their differences. There is a pathway where countries can attempt mediation before they resort to adjudication and an even more automatic pathway if that mediation fails. Such rules may favor trade in the sense that countries will be less likely to pursue protectionist measures and more likely to find solutions to their differences.

6.1 Notable Examples and Outcomes

Building upon the preceding section, noteworthy instances and outcomes where arbitration successfully resolved international trade disputes are examined. Phillips Petroleum Co. Iran v. Iran. Serves as an example where arbitration led to the amicable resolution of an investment relationship dispute. According to the arbitration agreement, which is difficult for the national courts to resolve (Award No. 425-39-2, 1981). In another example, in another example, the 2014 dispute between Yukos Universal Limited (Isle of Man) v. The Russian Federation exemplified the arbitration process mentioned in Part 2. The case resulted in a unanimous award by a panel of three experts after 10 years of proceedings, in which The Russian Federation had to pay USD$1.85 billion (PCA, 1976).

These cases and others presented on a larger scale highlight the practical dynamics of arbitration and mediation, as well as their benefits in facilitating a resolution compared with traditional litigation (Blythe, 2013).

7. Challenges and Limitations of Arbitration and Mediation in Trade Disputes

Notwithstanding its advantages, there are challenges and limitations in using arbitration and mediation to resolve trade disputes, both general and trade-specific. Notable among the trade-specific limitations are enforcement issues and non-compliance.

Enforcement Issues One of the biggest challenges with international arbitration is enforcement. If a party does not abide by or carry out a tribunal's ruling and awards, it can be challenging to implement them in their home country. Not all states are parties to an enforcement treaty, which makes it difficult for arbitral institutions to compel compliance across borders. And even if there is a treaty addressing enforcement, states may refuse to enforce tribunal decisions when it is against their interest. For example, especially in developing countries, many have taken advantage of loopholes in the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards by refusing to honor awards made by foreign institutions in favor of domestic options 1. As a result, many arbitral forums have been deemed as complicit and ineffective. There are similar weaknesses in the international enforcement of mediation settlements since the only adjustment to domestic enforcement was the UNCITRAL Model Law on International Commercial Mediation and International Settlement Agreements Resulting from Mediation. The problem with both enforcement and compliance is more prominent in regions with weak legal and institutional capacity and governance systems.

Non-Compliance and Problems Adopted Aside from enforcement issues, it is recommended that all the relevant parties with claims should participate in arbitration although compulsory arbitration is often criticized for being unfair to one party (Strong, 2016). As trade investigations can be triggered by any WTO member based on its perceived trade impairment, not all claims might be equally justified. In the dry bulk shipping dispute that triggered the first U.S. China agriculture disputes, a U.S. grain exporter asked the USDA to investigate, citing price discrimination that underpins a disagreement grounded in domestic competition, not U.S.-China trade. Given the dynamics of trade disputes such as anticipated and subjective trade injury, rejectionism on dispute initiation is common, thus undermining the overall utility of arbitration.

7.1 Enforcement Issues and Non-Compliance

Building on the previous discussion on the enforceability of arbitration and mediation in the international trade context, it is paramount to highlight some specific enforcement issues and challenges to non-compliance that may hamper the efficacy of these mechanisms. In consideration of these issues, a more nuanced understanding of the practical impediments at play here is essential. Outright defiance of arbitral awards or settlement agreements, abetted by judicial systems, was not an imaginary concern even in the 1990s (Award No. 425-39-2, 1981). In both civil and common law jurisdictions, courts demonstrated a tendency to decline enforcement of arbitral awards or to appeal them based on various grounds permitted by applicable arbitration laws and treaties. The most feared provisions of ICSID, for instance, became moot if the jurisdiction of ICSID itself was denied for political reasons. Some investor states' courts suspended ICSID enforcement proceeding uncontested, raising the specter of a nationalistic backlash against international arbitration, reminiscent of the "Calvo Doctrine" era of protectionism.

Anecdotal evidence suggests that med-arb in its comprehensive version, namely both mediation and arbitration conducted by the same adjudicator(s), is often rendered ineffective, since repeat players do not bother to abide by the mediation settlement and employ the subsequent arbitration as a mere strategy to obtain awards for frustrating it. Moreover, due to lack of commitment, parties with equal bargaining power found such hybrids unproductive (Strong, 2016). Examples of dilemmas and non-compliance abound: a party complies with an adverse arbitral award but not with the settlement terms reached in accordance with it. Thwarted enforcement of a CMSA may undermine its intended effect of enforceability, and ultimately of legitimacy, generating endless limbo of disputes with cascading economic effects; yet, insurmountable obstacles exist for one to enforce mediation obligations through arbitration.

8. Future Trends and Innovations in Arbitration and Mediation

Recent years have seen a significant increase in the number of arbitral institutions that have adopted rules regarding international commercial mediation. Corporate support for international commercial mediation is especially pronounced. Over 4,000 domestic and international corporations have signed the CPR Corporate Policy Statement on Litigation, which advocates the use of alternative means of dispute resolution, and the international corporate community increasingly uses mediation to resolve disputes with sovereign states, SOEs, and non-business entities. General Electric and Siemens are two multinational corporations that have publicly supported early dispute resolution in the form of mediation. Recently, a number of

studies, including some sponsored by the EU itself, have examined barriers to mediation usage in Europe. While awareness of mediation has increased, and numerous studies show its benefits, it remains largely under-used as a method of dispute resolution. In particular, suggestions have been made to increase the use of mediation by the European Union itself and/or among its member states (Strong, 2016).

In the off-line world of international commerce, there are many different ways in which international commercial disputes may be resolved. Litigation and international commercial arbitration have been dominant methods for centuries. Parties who are reluctant to litigate in a foreign forum favor international commercial arbitration. Unlike litigation, the arbitration procedure presents a flexible solution. Arbitration combines the adversarial process of litigation with negotiation and mediation (including conciliation) elements, thereby encouraging cooperation and dialogue. There is an opportunity to settle disputes amicably within a wider frame of relationships. Since the expansion of international trade and investment, international commercial arbitration has been resolving disputes arising from a variety of commercial agreements (Haikola, 2013).

8.1 Technological Advancements and Online Dispute Resolution

Technological advancements, including online dispute resolution, will play a crucial role in the evolution of arbitration and mediation in the context of international trade. Next to the rising importance of alternative dispute resolution, there are expectations regarding changing traditional arbitration and mediation procedures with improvements based on technological development. Developing countries are expected to be generators of innovative dispute resolution mechanisms, including arbitration and mediation. At the same time, they will be either unable or unwilling to sufficiently pursue the implementation of the modernized mechanisms. This is expected to result in a gap, an emerging division between developed countries favoring innovative and adapted mechanisms and developing countries unable or unwilling to pursue further development of dispute resolution mechanisms (Haikola, 2013).

A series of higher expectations for arbitration and mediation is on the rise. Parties are increasingly looking for more efficient, faster, lower cost, and future-oriented means of resolving their disputes. They expect arbitrators and mediators to perform high-quality procedures, reflecting on compliance with their own duty of care. It is expected that arbitral awards and settlement agreements will be enforced faster and any non-compliance dealt with immediately (Sucharitkul, 2001).

9. Conclusion and Recommendations for Enhancing Dispute Resolution Mechanisms in International Trade

The role of arbitration and mediation in resolving international trade disputes. It highlights the advantages of arbitration and mediation, the international framework governing their enforcement, and the effectiveness of these mechanisms compared to litigation. It focuses on the international context and does not delve into particular domestic legal frameworks for arbitration and mediation. It also includes recent developments that enhance the relevance and adaptability of arbitration and mediation in the realm of international trade. For instance, the new online dispute resolution mechanisms foreseen by the EU-ICC and ICC court rules provide a more accessible and faster alternative to traditional litigation, suited for non-complex disputes involving small amounts. Although these measures are aimed at reinforcing the existing dispute resolution model based on litigation, they risk leading to an overcrowded dispute resolution scene. Therefore, it is crucial to prioritize traditional and time-honored mechanisms, such as arbitration and mediation, by raising awareness of their advantages for both enterprises and adjudicators across borders and sectors (Strong, 2016).

The UNIDROIT Principles, the P.R.I.M.E. BDAW Guidelines, the ICC Rules, the 2010 UNCITRAL Model Law, and the Beijing Arbitration Commission apply to complex commercial disputes while addressing specific industries, such as natural gas or maritime, and market sectors, like insurance or intellectual property. These instruments influence domestic legal frameworks, offer best practices, and contribute to the international standard-setting system, shaping trade path development. However, there is no universal dispute resolution instrument specifically addressing and defining the assessment of the speed, quality, and enforceability of the outcome in cross-border commercial arbitration or mediation. Evaluating institutional capability or the arbitral tribunal appointed in complex commercial at-the-spot disputes, such as offshore decisions applicable to development controversies offshore countries with advanced and much heavier technological capacity than coastal ones, and similar imbalances behind mainland solvency, could enhance arbitration or mediation indexes.

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