

On the Mechanism of Diversified Settlement of International Commercial Disputes in the Context of Globalization

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Keywords: International Commercial Disputes, Diversification Mechanism, Globalization Background, Arbitration, Integrated Mechanism.

Abstract: The development of economic globalization has become the trend of the times, in such a situation, the background of globalization development is gradually formed, but at the same time, international commercial disputes also show a trend of diversification. In order to solve this problem, our country has put forward the pluralistic settlement mechanism of international commercial disputes. This diversified solution mechanism is more flexible in operation and can perfectly cater to the current international development situation. Firstly, this paper discusses the dispute settlement mechanism of international commercial disputes, and analyzes its diversified development trend.

1. Introduction

At present, China is vigorously developing the Belt and Road strategy, and has put forward a multi-point construction initiative. In order to create a better environment for the development of the Silk Road, China hopes to introduce a regional international commercial dispute settlement mechanism to effectively face the current numerous and complex international commercial disputes, such as the establishment of an international commercial court, or the establishment of a convenient "one-stop" pluralistic dispute resolution mechanism.

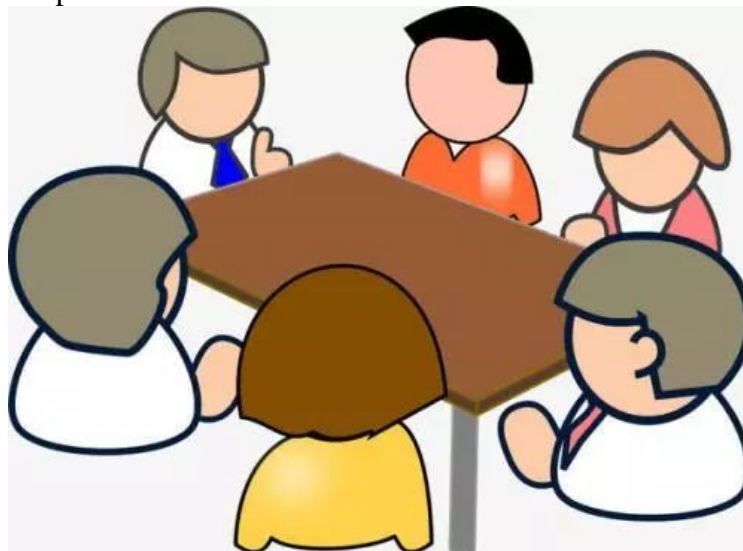


Figure 1 International commercial disputes

2. Diversified Trends in International Commercial Disputes

The diversified development trend of international commercial disputes is becoming more and more obvious under the background of globalized economy. In addressing this issue, countries around the world have also reflected on various approaches, such as consultation, mediation, good

offices, judicial proceedings and arbitration. Generally speaking, judicial litigation has its high authority, and it can assist complete organization procedure to solve the dispute problem, but judicial litigation cannot completely replace other dispute settlement methods, it still has some disadvantages. As far as the global legal system is concerned, the definition of judicial action for the settlement of international commercial disputes can embody certain values or buffer the contradiction between countries, but in contrast, the limitations of judicial action are highlighted in some aspects of diplomatic dispute settlement. To this end, the United Nations proposed a commercial dispute settlement mechanism in the UNCITRAL Model Law on International Commercial Conciliation. In 2009, the Supreme People's Court of China also issued a number of opinions on establishing and improving the mechanism for resolving contradictions and disputes between litigation and non-litigation. At present, China's arbitration rules and arbitrators have gradually tended to international development and transformation, China's more than 200 arbitration institutions have formulated their own arbitration rules. At the same time, the arbitration members of domestic arbitral tribunals come from more than 10 countries at home and abroad, and the supervision of international commercial arbitration is becoming more relaxed and more secure in the enforcement of international commercial disputes[1].



Figure 2 Security

3. Development Direction of Pluralistic Settlement Mechanism for International Commercial Disputes

The development of diversified settlement mechanism of international commercial disputes in our country is developing towards diversification, which is applied to arbitration, and arbitration is gradually inclined to mediation. Generally speaking, our country's international commercial dispute settlement mechanism is from the judicial litigation gradually to the diplomatic, the judicial litigation union aspect inclines, compared with the commercial arbitration and the judicial litigation, the mediation flexibility and the economy all can see the spot. Our country is very dependent on judicial mediation, it appears in the litigation procedure, arbitration procedure, hoping to make a reasonable mediation agreement in the two procedures, to give the mandatory content to the law, which has really become a new direction and new mechanism for the pluralistic settlement of international commercial disputes in our country. At present, all the countries in the world, including our country, have made certain legal provisions on the conciliation procedure, the purpose of which is to realize the diversified development process of arbitration settlement of international commercial disputes. In our country, the relevant contents of the legislation for arbitration mediation are becoming more and more abundant, even in many international trade dispute settlement mechanisms have also standardized the targeted mediation procedures, it has improved the operability and feasibility of international commercial trade issues. The purpose of this operation is also to hope that third-party mediation and parties can flexibly enter into the choice of dispute settlement, and effectively enhance the legal effect of commercial mediation. At present,

under the guidance of the "Belt and Road" country's top-level strategy cooperation initiative, China has created a new dispute settlement mechanism, which pays special attention to the effective use of the content of negotiation mediation, hoping to take this opportunity to improve the efficiency and interest of mediation[2].



Figure 3 Improving the efficiency of mediation

4. The Construction of Diversified Settlement Mechanism for International Commercial Disputes in China

4.1. Construction of an International Commercial Tribunal

At present, China should set up regional international commercial courts, strengthen arbitration mediation to effectively resolve international commercial disputes, and optimize the development process of international commercial dispute settlement comprehensive mechanism. In particular, the International Commercial Tribunal was first established to resolve the issue of contradictions in international commercial disputes. At present, the world's Singapore, Bahrain, Qatar and other countries have globalized international commercial tribunals, and their settlement of litigation is becoming more and more diversified. In recent years, China is developing the "Belt and Road" international strategy, and the country itself hopes to draw on the above-mentioned national practices to establish a diversified settlement mechanism to solve international commercial trade disputes, so as to meet the current increasing number of international commercial disputes along the line of trade, investment and infrastructure, so as to better feed the "Belt and Road" construction. In 2018, the Supreme People's Court of China announced the establishment of the First and Second International Commercial Courts in Shenzhen and Xi'an, hoping to establish a dispute settlement mechanism for the settlement of disputes between domestic and foreign disputes in commercial trade, to promote the dispute settlement process of some international trade, to realize the policy of high-level trade with investment facilitation, to create a relatively stable, fair, transparent and predictable legal environment, and to realize the optimization of the rule of law system.

The key to the construction of the international commercial court is to optimize the rules of the court, the level of facilities construction and the staffing of the court, strive to open up the channels for the development of the construction of the hardware and software, rationalize and standardize the efficiency of the acceptance, service and trial regulation of the international commercial court, clarify the relevant litigation and arbitration contents, ensure the effective docking of the judicial and mediation mechanism, and construct a "one-stop" dispute settlement model of the international commercial court. Furthermore, through this international commercial tribunal, our country also hopes to establish a win-win relationship of cooperation with the world-renowned international commercial tribunals.

4.2. Diversified Development Mechanisms for International Commercial Dispute Settlement

After the establishment of the international commercial court, it is necessary to put forward a diversified development mechanism for the settlement of international commercial disputes. At present, the international commercial court of our country adopts the non-litigation settlement mode, which can occupy the leading position in arbitration, and in order to develop towards diversification, our country hopes to establish a new set of regulation and consultation development mode, which should include the negotiation mode other than mediation, and establish a new "one-stop" international commercial court in the process of regional economic development. This court is not a traditional court, it has a number of convenient services, including a variety of settlement models, including mediation procedures, including a number of settlement models, is the latest development of international commercial dispute settlement, it is quite practical and sustainable development characteristics. In this paper, we should consider the following issues after proposing a diversified development mechanism for the settlement of international commercial disputes:

It is also the best guarantee for the sustainable development of the international commercial court to perfect the standardized development mechanism of the diversified dispute settlement. Here, it is necessary to clarify the relevant industry mediation mechanism of China's international commercial court, and clarify the legal status of commercial mediation, and establish new mediation rules and corresponding docking procedures. In other words, it is necessary to establish the professional and professional development structure of social mediation, improve the overall credibility of arbitration mediation, establish a diversified dispute resolution mechanism and enrich its functions. In this process, it is necessary to integrate the resources effectively, strengthen the tight density of mediation and litigation arbitration, and construct a set of perfect commercial mediation, arbitration and litigation mechanism.

It is necessary to establish a multi-dispute dispute settlement model of information technology. Because there are many kinds of international commercial, in order to improve the efficiency of work, it is necessary to build an information online mediation platform, establish relatively stable, secure and confidential network hardware and software facilities, and establish a specialized secret data protection mechanism. Specifically, it should include video conferencing system, online mediation system, legal service information system and so on. These systems are able to allow the parties to negotiate in international commercial disputes, and to ensure fairness in arbitration mediation, effectively reduce "face-to-face" conflict issues, and become the best choice for parties to dispute arbitration mediation[3].

5. Conclusion

The establishment of the international commercial court is to effectively resolve the problems of commercial disputes between equal subjects, to determine the specific dispute settlement mechanism in combination with international treaties, to adopt a variety of models, including arbitration, regulation, ADR, to determine the mediation process, and to establish an effective protection mechanism for the development of regional economy. In our country, the construction of international commercial court based on "Belt and Road" strategy is necessary, it can establish a "one-stop" dispute settlement mechanism in the pursuit of disputes, and better serve commercial activities and enterprises. In the future, China's international commercial courts should draw more lessons from the experience of developed countries abroad, and strive to go further and further on the road of diversified development.

References

- [1] Sun, Wei. Study on the International Commercial Dispute Settlement Mechanism of "Belt and Road" - From the Perspective of China-ASEAN Free Trade Area. *Journal of Beijing Institute of Printing*, vol. 27, no8, pp. 82-85, 2019.
- [2] Wang, Min. A study on the international commercial dispute settlement mechanism "autonomy

of will" under the "Belt and Road" initiative. *Enterprise Economy*, no. 4, pp. 89-94, 2019.

[3] Zhao, Qingshu. Construct and perfect the international commercial dispute settlement mechanism under the background of "Belt and Road ". *Knowledge Economy*, no. 4, pp. 65-66,68, 2019.