

# Research on Innovative Dispute Resolution Mechanisms for Belt and Road Investment Disputes: A Case Study of the RCEP Regional Dispute Resolution Mechanism

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**Keywords:** Belt and Road Investment Disputes, RCEP Dispute Resolution Mechanism, Innovative Dispute Resolution Mechanism.

**Abstract:** Frequent investment disputes among Belt and Road Initiative (BRI) member states have exposed the inefficiencies of traditional mechanisms, including procedural delays, fragmented rules, and weak enforcement. Notable issues include the lengthy procedures of the International Centre for Settlement of Investment Disputes (ICSID) and the absence of a unified mediation framework. This study examines the Regional Comprehensive Economic Partnership (RCEP) dispute resolution mechanism, extracting its core features-such as consultation prioritization, flexible forum selection, and differentiated treatment for developing nations-to evaluate its applicability. Building on this analysis, the paper proposes an innovative BRI dispute resolution framework. At the principal level, it emphasizes fairness, balanced interests, and cooperation-oriented governance. Structurally, it advocates establishing a permanent multi-lateral institution, implementing tiered arbitration procedures, and leveraging blockchain technology to enhance cross-border enforcement. These recommendations aim to address systemic deficiencies and improve global governance efficacy.

## 1 INTRODUCTION

In recent years, international trade dispute resolution has garnered significant attention from scholars, frequently serving as a focal topic at international law conferences. The Belt and Road Initiative (BRI), as a platform for global cooperation, has become a central subject of academic inquiry. While the BRI fosters cross-regional collaboration, disputes inevitably arise during transnational engagements. Statistics from the UNCTAD database reveal that BRI countries are frequently respondents in international investment arbitration cases (Ming, 2018). Resolving such disputes thus emerges as a critical challenge. Existing mechanisms, particularly the RCEP framework, dominate current practices. This study investigates the RCEP dispute resolution mechanism to propose innovative solutions tailored to BRI investment disputes, offering fresh insights for enhancing governance under evolving global dynamics.

## 2 LITERATURE REVIEW

Scholars classify BRI-related commercial disputes into three categories, state-to-state disputes over BRI projects, infrastructure construction and financial agreement disputes and international trade and investment conflicts (Wang, 2020). Comparative analyses of CPTPP and RCEP highlight that CPTPP encompasses broader regulatory domains, including labor rights and state-owned enterprise reforms, with stricter enforcement clauses (Che & Qiao, 2022). However, RCEP's exclusion of Investor-State Dispute Settlement (ISDS) provisions is noted as a critical flaw, potentially conflicting with existing bilateral ISDS agreements (Tran Thi Thuan & Vo Tan Huy, 2024). Additionally, BRI's ISDS mechanisms face challenges such as ambiguous arbitration scopes and insufficient coordination between international arbitration and local remedies (Mo & Gao, 2022). Scholars further critique the limited enforceability of BRI mediation outcomes and advocate for diversified dispute resolution frameworks (Ming, 2018). Building on these discussions, this paper evaluates

CPTPP and RCEP mechanisms, identifies gaps, and proposes actionable reforms for BRI investment disputes.

### **3 CURRENT STATUS AND CHALLENGES OF BRI INVESTMENT DISPUTES**

#### **3.1 Legal and Political Risks**

BRI investment disputes are compounded by heterogeneous legal environments and geopolitical tensions. Member states' legal systems span civil law, common law, and Islamic law, with some jurisdictions plagued by vague statutes, judicial inefficiency, and local protectionism. For instance, Yemen and Jordan face prolonged enforcement timelines, undermining investor rights (Gu & Deng, 2023). Fragmented bilateral investment treaties (BITs) further exacerbate jurisdictional ambiguities. Geopolitical risks are equally salient, particularly in regions like the Middle East and South Asia, where strategic rivalries and security threats—such as terrorism and political instability—directly impact investments (e.g., disruptions to the China-Pakistan Economic Corridor).

#### **3.2 Limitations of Existing Mechanisms**

##### **3.2.1 Inadequate Mediation Frameworks**

"Belt and Road" investment disputes can be broadly categorized into three types. The first type involves investment and trade disputes between the investor's home state and the host state. The second type consists of investment and trade disputes between international individual investors and the host state. The third type refers to investment and trade disputes arising between international individual investors and private operators within the host state (Fan, 2023). Among these, sovereign states play a crucial role in "Belt and Road" investment and trade disputes.

Moreover, "Belt and Road" investments possess unique characteristics, as individual investors are often backed by state support or state-owned enterprises (Wang, 2020). For instance, Chinese investors frequently engage in transactions involving state-owned enterprises, meaning that investment and trade disputes concerning individual investors can easily escalate into intergovernmental or interstate conflicts. Consequently, "Belt and Road" investment

disputes cannot be adequately resolved solely through traditional WTO-based investment dispute settlement mechanisms.

Some scholars have pointed out that "Belt and Road" investment disputes are often resolved through mediated settlement agreements. During mediation, mediators take into account the interests of both parties and adopt an "interest-oriented" approach to facilitate an agreement. However, this mediation model faces a significant challenge, namely, the lack of enforceability (Jiang & Wu, 2024). The root cause lies in the absence of binding mechanisms to ensure the implementation of mediated agreements. To date, no supranational regional mediation organization or treaty agreement has been established among "Belt and Road" participating countries, which contributes to the weak enforceability of dispute resolution mechanisms in "Belt and Road" investment and trade disputes.

##### **3.2.2 Drawbacks of International Arbitration**

First, regarding the arbitration system, confidentiality is one of its defining characteristics. However, in the international context, there is a growing demand for increased transparency in arbitration. The principle of confidentiality in arbitration is explicitly reflected in the arbitration rules of the American Arbitration Association (AAA) and the International Chamber of Commerce (ICC), which stipulate that hearings must generally remain closed unless the parties agree otherwise (Zhang, 2024).

Unlike traditional domestic investment arbitration, where both parties are typically entities within a single country (e.g., companies, enterprises, or individuals), international investment arbitration involves cross-border disputes, making the situation more complex. In certain cases, the confidentiality of international arbitration may create challenges for investors—for instance, host states may exploit confidentiality rules to evade their international obligations and duties of "good governance." In other cases, it may also negatively affect domestic investors in the host country, as they may lack access to critical information, leading to a deprivation of their right to know and ultimately harming public welfare.

Furthermore, arbitration proceedings are often protracted, and the issue of timeliness has long been criticized by scholars. For investment projects, time is of the essence, and opportunities can be fleeting. The longer the arbitration process drags on, the greater the losses incurred. For example, in the Laos arbitration case, Power China not only bore

arbitration costs and time expenditures but also faced pressures such as labor wage disputes and project delays.

Notably, in recent years, there have been constructive explorations addressing this issue. The Singapore International Arbitration Centre (SIAC) introduced a summary procedure in its 2025 Rules. According to Rule 13.1, the summary procedure shall apply if the parties so agree, or if the amount in dispute does not exceed S\$1,000,000, unless the SIAC President, upon application by a party, decides otherwise in the latter scenario. Additionally, Rule 13.3 states: The parties may, by written agreement, opt out of the summary procedure.

## **4 CONSTRUCTING AN INNOVATIVE BRI DISPUTE RESOLUTION MECHANISM BASED ON RCEP**

### **4.1 Lessons from the RCEP Mechanism**

#### **4.1.1 Core Features of RCEP**

RCEP prioritizes consultation, requiring parties to respond within 7 days and conclude negotiations within 30 days (20 days for urgent cases).

Notably, the Regional Comprehensive Economic Partnership (RCEP) partially addresses the needs of developing country members by providing substantial support to less-developed members such as Laos, Myanmar, and Cambodia through mechanisms like Special and Differential Treatment (SDT), economic and technical cooperation, and transitional period arrangements.

RCEP explicitly mandates that developed member states assist less-developed members in enhancing their capacity to fulfill treaty obligations through technical assistance, knowledge sharing, and financial support. For instance, the ASEAN Secretariat Report (2023) indicates that Japan provided over USD 5 million to Cambodia from 2021 to 2023 for customs system modernization. Furthermore, to alleviate pressure on developing countries, RCEP permits extended transitional periods in areas such as tariff concessions and services trade liberalization. For example, Annex 2-A of Chapter 2 allows Cambodia, Laos, and Myanmar a 15-year transitional period for tariff reductions on goods—compared to the 10-year period for other members—and permits them to maintain higher tariffs

on sensitive products such as agricultural goods.

### **4.1.2 Applicability to BRI Disputes**

As the largest free trade agreement in the Asia-Pacific region, the Regional Comprehensive Economic Partnership (RCEP) embodies significant flexibility in the procedural design and jurisdictional scope of its dispute settlement mechanism (Chapter 19). Notably, it excludes the Investor-State Dispute Settlement (ISDS) mechanism, instead establishing a distinctive flexible framework through a State-State Dispute Settlement (SSDS) mechanism and reserving space for subsequent negotiations.

RCEP prioritizes efficiency by mandating consultation as the core preliminary procedure for dispute resolution. The requested party is required to respond within 7 days and conclude consultations within 30 days of receiving a request, with timelines shortened to 15 days in urgent cases. This contrasts with the World Trade Organization (WTO)'s 10-day response period, reflecting RCEP's stricter adherence to efficiency (Feng, 2024). Additionally, to avoid protracted institutional approval processes, RCEP empowers contracting parties with greater procedural autonomy by allowing them to either directly select panelists or delegate appointments to the WTO (Xu & Xu, 2023).

RCEP achieves a nuanced equilibrium by explicitly excluding investor-state disputes from its jurisdiction (Article 18 of Chapter 10), permitting only inter-state disputes over treaty obligations to be submitted to panels. This design circumvents jurisdictional conflicts potentially arising from ISDS mechanisms while preserving flexibility for future negotiations. Under the agreement, all parties must initiate discussions on ISDS mechanisms within two years of the agreement's entry into force, with any final decision requiring unanimous consent, thereby institutionalizing incremental reform (Wang, 2023).

RCEP stipulates that panel rulings are final and binding, accompanied by a compliance review mechanism. If a respondent fails to implement a ruling, the disputing party may request the reconvening of the original panel for review, with proceedings required to conclude within 150 days. Notably, RCEP diverges from the WTO's "retaliation mechanism" by prioritizing political consultation to enforce compliance, thereby mitigating the adversarial impact of punitive measures on regional cooperation (Feng, 2024).

The Regional Comprehensive Economic Partnership (RCEP) adheres to a cooperation-oriented approach that fully respects developmental

disparities. Notably, the agreement explicitly excludes the application of the Investor-State Dispute Settlement (ISDS) mechanism, confining investment disputes to resolution through inter-state consultations among the Contracting Parties. This design substantially safeguards the sovereignty of developing nations. Furthermore, Article 18.19 provides procedural exemptions for less developed member states such as Cambodia, Laos, and Myanmar, mandating dispute settlement panels to consider their economic standing during adjudication and imposing restrictions on the implementation of compensation procedures.

Concurrently, RCEP prioritizes the principle of consultation precedence, requiring mandatory consultations between disputing parties prior to formal submission to an adjudicative panel. The consultation mechanism emphasizes both procedural transparency and confidentiality of substantive information, constituting an institutional arrangement aimed at conflict resolution through non-confrontational means (Xu & Xu, 2023).

## **4.2 Framework Design for the BRI Mechanism**

### **4.2.1 Establishment of Principles for Innovative Mechanisms**

Fairness and equity constitute the core value orientation of both the RCEP and the Belt and Road Initiative (BRI) dispute resolution mechanisms. The RCEP ensures impartiality in dispute settlement procedures through unified rules of origin, transparency provisions, and alignment with WTO rules. For instance, RCEP explicitly mandates that panels interpret the agreement by referencing the jurisprudence of the WTO Dispute Settlement Body, thereby maintaining coherence within the international trade governance framework (Kong, 2021). Concurrently, the agreement establishes transitional periods and exception clauses for least-developed countries such as Cambodia and Laos, balancing the rights and interests of nations at varying developmental levels through Special and Differential Treatment (SDT), which embodies substantive fairness (Shen & Li, 2023). To operate this principle within the BRI multilateral framework, procedural fairness could be enhanced by institutionalizing third-party evaluation mechanisms during adjudication (Xu & Xu, 2023).

RCEP's rulemaking emphasizes the coordination of diverse interests. Its forum selection clause allows member states to elect applicable dispute resolution

frameworks (e.g., RCEP or bilateral investment treaties) based on specific disputes, thereby avoiding jurisdictional conflicts (Kong, 2021). This mechanism offers critical insights for BRI dispute resolution: in cases involving multi-state interests, an Interest Balancing Committee could be established to holistically assess economic, social, and environmental impacts, while implementing compensatory measures to redress losses incurred by disadvantaged parties. For example, in infrastructure investment disputes, BRI mechanisms could adopt RCEP's approach to technical assistance for developing countries by requiring advanced economies to provide funding or capacity-building support (Jing, 2021).

RCEP prioritizes consultation and non-confrontational resolution pathways, mandating compulsory consultations before disputes are submitted to panels and advocating cooperation through Alternative Dispute Resolution (ADR) mechanisms such as mediation and conciliation (Xu & Xu, 2023). This principle aligns closely with the BRI's ethos of "joint consultation, joint contribution, and shared benefits." Future mechanisms could expand cooperative frameworks by establishing a Dispute Prevention Database to share policy updates among member states, thereby reducing friction risks. Additionally, a Joint Technical Committee could facilitate consensus-building in emerging fields such as digital trade and green energy (Shen & Li, 2023).

### **4.2.2 Design of Specific Frameworks**

The current RCEP framework lacks a permanent dispute settlement body, relying instead on ad hoc panel appointments, which has led to inconsistencies in rulings (Kong, 2021). To address this, the Belt and Road Initiative (BRI) could establish a Multilateral Dispute Settlement Center (MDSC) with three specialized branches.

**Consultation and Mediation Division:** Facilitates informal dialogues among member states, providing legal advisory and mediation services. **Expert Arbitration Tribunal:** Composed of authoritative scholars and international judges across disciplines, operating under a roster system to ensure expertise. **Compliance Oversight Committee:** Monitors implementation of rulings and imposes collective sanctions (e.g., restricted market access) on non-compliant parties.

Drawing from the Asian Infrastructure Investment Bank (AIIB)'s governance model, the MDSC could adopt a weighted voting system to balance the influence of major powers with the participation



rights of smaller states (Jing, 2021).

While RCEP's "final and binding" arbitration principle enhances efficiency, it fails to address complex issues such as investment disputes (Xu & Xu, 2023). The innovative mechanism could introduce a three-tier procedural system. Summary Procedure: For disputes under USD 5 million, requiring resolution within 90 days by a single arbitrator. Expedited Track: Tailored for time-sensitive sectors like digital trade and cross-border e-commerce, utilizing online hearings and electronic evidence submission. Standard Procedure: Retains traditional arbitration processes but shortens timelines to 12 months (Kong, 2021).

Additionally, an early dismissal mechanism could be incorporated, empowering tribunals to reject frivolous claims after preliminary review, thereby conserving judicial resources (Shen & Li, 2023).

RCEP's reliance on voluntary compliance and limited retaliatory measures (e.g., suspension of concessions) results in weak enforceability (Kong, 2021). To mitigate this, the innovative mechanism should establish a tripartite enforcement framework.

Enforcement systems through legislative amendments. For example, China could revise its Civil Procedure Law to include a dedicated chapter on international award enforcement. Multilateral Coordination: Collaborate with institutions like UNCITRAL and the ICC to list non-compliant states on a compliance blacklist, restricting their access to international financing projects. Establish a collectively funded enforcement reserve to compensate prevailing parties up front, with subsequent recovery from non-compliant states (Xu & Xu, 2023).

Further, blockchain technology could be leveraged for immutable documentation and cross-border verification of awards, enhancing transparency and efficiency (Jing, 2021).

## 5 CONCLUSION

In this paper, RCEP's dispute settlement program design, award execution, principal establishment and other aspects are taken as the starting point to study the "One Belt, One Road" investment dispute settlement mechanism. It is found that although RCEP has some conflicts with ISDS, it still has reference significance. We can learn from the flexibility and tolerance of RCEP mechanism and build a new "One Belt, One Road" investment dispute settlement mechanism based on the principles of fairness, justice, giving consideration to interests and

promoting cooperation. In this paper, the mechanism of RCEP is analyzed by means of literature research, and the flexible, inclusive and efficiency-oriented rule design of RCEP is studied. Further, the construction of "One Belt, One Road" innovative settlement mechanism based on RCEP dispute settlement mechanism is expounded, which is embodied in establishing specialized dispute settlement institutions, optimizing arbitration procedures, introducing fast arbitration channels, improving the guarantee mechanism for award execution, deepening innovation in three dimensions: institutional permanence, procedural stratification and enforcement compulsion, and strengthening the connection with existing international law to help.

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