

Evaluation of Dispute Settlement Mechanism under the "Belt and Road" Policy

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Abstract: Since the introduction of the "Belt and Road" policy, it has received widespread attention from countries along the route. It has given a new connotation to the ancient "silk road". Under the strong promotion of China, it is supposed to inject new impetus into the further prosperity of the world economy. With the smooth progress of the "Belt and Road", international investment in the regions will surely generate relatively rapid growth. If there is an investment, there will be controversy, and the settlement of investment disputes has always been a matter that investors care about. The "Belt and Road" policy covers a huge area, has many participating countries, also there are significant economic, political, and cultural differences among countries. Therefore, the investment dispute settlement mechanism under it must have certain regional characteristics. If only simply copy the experience from the existed dispute settlement mechanism, to resolve investment disputes under this new situation, it is impractical to do so. In this regard, in the thesis, the author will make an analysis of the dispute under the "Belt and Road" policy, then introduce the current dispute resolution mechanism and evaluation of them, finally the author will give suggestions on how to perfect the dispute resolution mechanism under the "Belt and Road" policy.

1. Disputes under the "Belt and Road" policy

According to the different scope of subjects involved in investment disputes, international investment disputes are divided into broad and narrow senses. The broad scope does not limit the subject, as long as it is a dispute caused by direct or indirect international investment, whether it is a natural person, a legal person or a foreign government, or a foreign company or institution. The narrow concept is limited to the direct investment activities of individuals, enterprises and other private individuals abroad. In this article, the subject will be defined in the broad scope.

International investment disputes can be roughly divided into the following three categories according to the subject^[1]:

(1) Investment disputes between the investor country and the investee country. Such disputes are often found in the following situations: disputes between countries on how to apply and interpret the bilateral or multilateral investment agreements signed by them; the government of the capital-exporting country, on behalf of its own individuals, enterprises, and other private investors, requests the right of diplomatic protection or subrogation from the capital-importing country, which triggers

and even rises to investment disputes between countries.

(2) Investment disputes between private investors in the contributing country and the host country. For example, the host country government takes state actions in order to safeguard the country's national sovereignty, public interests, and citizens' legitimate rights and interests, thereby harming the interests of foreign companies or individuals. According to the kind of dispute, it can be divided into commercial disputes, international trade disputes and investment disputes^[1].

(3) Investment disputes between private investors in the contributing country and private investors in the invested country. This type of transaction has a wide range, including trade, investment, technology transfer, intellectual property protection, corporate mergers, acquisitions and divisions, equipment sales, privilege transfers, etc. The characteristic of this type of dispute is that the matters involved are regulated by the contract signed by the parties, including dispute settlement methods, applicable law, etc. The parties may mutually agree to settle the dispute by the court of the place where the dispute is settled, or through arbitration. Current Dispute Resolution Mechanisms

1.1 Dispute settlement mechanisms between states

The main subject of inter-state disputes is the government. The international dispute settlement methods can be broadly divided into two categories: political settlement methods, such as consultation, negotiation, good offices, mediation and conciliation; and legal settlement methods, including arbitration procedures and judicial settlement procedures represented by the International Court of Justice. In resolving disputes between countries along the Belt and Road, China mainly relies on the bilateral agreements and regional agreements signed with countries along the Belt and Road as well as the relevant WTO mechanisms.

A Bilateral Investment Treaty (BIT) is an agreement signed between two countries to promote, encourage and protect mutual investment. It is the most important legal form in the field of international investment law and plays a very important role in overseas investment between capital importing and capital exporting countries. As of August 2019, China has signed bilateral investment agreements with 87 countries along the route^[2]. In the context of the "Belt and Road" construction, investment cooperation between China and countries along the "Belt and Road" has been deepening, which is inevitably accompanied by investment disputes, including disputes between countries and disputes between investors and host countries. For these two types of disputes, the BITs provide for the respective dispute settlement mechanisms to be applied. The dispute settlement provisions in BITs are basically similar, and the dispute settlement methods can be broadly summarized as follows: firstly, diplomatic settlement, for instance, the Article 11 of Agreement between the Government of the People's Republic of China and the Swiss Federal Council on the Promotion and Reciprocal Protection of Investment stated that "All disputes between the Parties concerning the interpretation or implementation of this Agreement shall be settled through diplomatic channels". Secondly, settlement by arbitral tribunal. The settlement of disputes between States parties provides, first and foremost, for diplomatic settlement, and in the event of a dispute concerning the interpretation or application of an agreement, the parties should seek to resolve it through diplomatic consultations. Since the dispute arises from the application and interpretation of the treaty, it is naturally most appropriate for the contracting parties to reach an agreed solution by means of consultations. All bilateral investment agreements entered into by China use amicable consultations as the preferred method and as a pre-requisite for submission to arbitration. If the contracting parties are unable to resolve the dispute through amicable negotiations within a specified period of time (usually six months), the dispute may be referred to an ad hoc arbitral tribunal. In May 2003, Italy initiated an ad hoc arbitration against Cuba pursuant to Article 10 of the Italy-Cuba BIT. This article provides that disputes between the Contracting Parties concerning the interpretation or application of the treaty

may be submitted to interstate arbitration for settlement. The tribunal focused on the question of whether international investment arbitration under Article 9 of the Italy-Cuba BIT would prevent the investor's home State from using inter-State arbitration to bring a claim for diplomatic protection. The tribunal held that an investor could claim diplomatic protection from its home State as long as the investor had not formed a consent to investment arbitration with the host State or had not submitted the dispute to arbitration. The tribunal thus found that Italy was entitled to bring a claim for diplomatic protection in the framework of interstate arbitration, subject to the other conditions of jurisdiction set out in the treaty^[3]. There are only three known cases of interstate arbitration based on bilateral investment treaties, namely Republic of Ecuador v. United States of America^[4], *Empresas Lucchetti, S. A. and Lucchetti Peru, S. A. v. The Republic of Peru*^[5] and *Italian Republic v. Republic of Cuba*^[6]. There are currently no interstate investment arbitration cases between China and countries along the "Belt and Road".

A regional trade agreement is an international treaty concluded between two or more countries, or different customs territories, in order to remove various trade barriers between members and regulate trade cooperation relations between them. China has signed free trade agreements with 13 countries/organizations, most of which contain general rules for dispute settlement^[7]. There are several main types of provisions in such dispute resolution mechanisms. The first is the scope of application of the dispute settlement mechanism. Such clauses usually provide that the dispute settlement mechanism applies to avoid or resolve all disputes between the parties concerning the settlement and application of the agreement, or where one party considers that the other party's measures are inconsistent with its obligations under the agreement or that the other party has failed to comply with its obligations under the agreement. For example, Article 51(2) of the China-Chile Free Trade Agreement between China and Chile provides that "the provisions of Chapter X of this Agreement shall not apply to actions taken by the Parties pursuant to Article XIX of GATT 1994 and the Agreement on Safeguards as defined in Article 50 of this Agreement"^[8]. The next is the choice of venue clause. A choice of venue clause, also known as a choice of jurisdiction clause, is primarily used to resolve conflicts of jurisdiction. Next is consultation and good offices, mediation and conciliation mechanisms. In this category, the consultation procedure is set first and is the antecedent procedure. Good offices, mediation and conciliation procedures are not compulsory. Generally speaking, good offices, mediation and conciliation procedures may be initiated and terminated at any time by the parties to the dispute. And most agreements provide for good offices, mediation and conciliation procedures to be conducted simultaneously with the proceedings of the arbitral tribunal or panel of experts, with the consent of the parties to the dispute. With the exception of the two free trade agreements between China and Peru and Georgia, all other agreements provide for good offices, mediation and conciliation procedures. The dispute settlement mechanism also provides for an arbitration clause. RTAs provide that if consultations fail to resolve a dispute within a specified period of time, the claimant may request in writing that an arbitral tribunal be established to hear the matter in dispute.

Among those dispute settlement mechanisms for resolving disputes between countries, the WTO plays a key role in the settlement of disputes between countries along the "Belt and Road".

At present, 51 of the 65 countries along the "Belt and Road" have joined the WTO, and most of them have used the WTO dispute settlement mechanism^[9]. Until January 1, 2019, 16 cases between countries along the "Belt and Road" have been submitted to the WTO for settlement. Through the analysis of these cases, the author concludes that most of these inter-country disputes submitted to the WTO for settlement are mainly about anti-dumping, countervailing measures and safeguard measures. For example, *Vietnam v. Indonesia Partial Safeguard Measures on Steel Products*, a case against Indonesia's safeguard measures on some steel products, was initiated in June 2015 and the measure at issue was the imposition of specific tariffs on galvanized aluminium steel sheets after

Indonesia then conducted an investigation under its domestic safeguard measures law^[3].

The WTO dispute settlement process adopts a combination of political and judicial approaches, with more emphasis on judicial settlement of disputes through panels and the Appellate Body in comparison. In terms of the political approach, similar to other interstate dispute settlement mechanisms, it is mainly through consultation, good offices, mediation and conciliation. In the consultation process, according to Article 4 of the WTO “Understanding on Rules and Procedures Governing the Settlement of Disputes, DSU”, if China and countries along the Belt and Road decide to use the WTO dispute settlement mechanism to settle trade and investment disputes, the first and foremost procedure that must be followed is consultation^[10]. In terms of judicial modalities, panels and appeal procedures are at the heart of the WTO dispute settlement mechanism. If the dispute cannot be resolved through consultations, good offices, mediation and conciliation, the prosecution can directly request the establishment of a panel. The composition of the panel is strictly regulated, and the WTO Secretariat maintains a list of experts whose competence and experience are appropriate. The panel generally meets twice, once to hear presentations and opinions from both sides and once to initiate a formal rebuttal. At the end of the meeting, the panel issues a report, the final report of which is adopted by the dispute settlement mechanism by "reverse unanimity". If a party disagrees with the report, it can appeal to the Appellate Body. During the appeal process, the Appellate Body can only consider the legal issues and legal interpretations covered by the panel's report.

1.2 Investor-Host State Dispute Settlement Mechanisms

The main modes of investor-host country investment dispute settlement include political and judicial and quasi-judicial modes. Political settlement mechanism includes negotiation, mediation and diplomatic protection, which usually do not provide for specific procedural rules and do not have a specific dispute settlement body and are mostly ad hoc. Judicial means include host country remedies, remedies from foreign courts and international judicial bodies, and international arbitration. Host country remedies refer to the settlement of investment disputes from the judicial or administrative bodies of the host country, the disputes will be settled in accordance with the procedural and substantive laws of the host country. Generally speaking, when a foreign investor suffers a loss as a result of an act of the host country, the investor will usually seek relief in the domestic law of the host country by filing a lawsuit in the host country's judicial system. Local remedies in the host country generally apply to cases relating to expropriation measures by the host country, or to losses suffered by the investor as a result of the host country's exercise of public State powers. In 1989, the International Court of Justice upheld the principle of local remedies in the host country in the famous case of *ELSI USA Inc. v. Italy*, in which *ELSI* argued that the company's insolvency and losses were linked to unfair treatment by the Italian government and sought reimbursement from the Italian government, and Italy objected to the case being brought before the Court on the grounds that *ELSI* had not exhausted its local remedies. Ultimately the Court held that when a treaty is silent on an important rule of customary international law, that rule should be applicable because "an important rule of international law cannot be implicitly ignored". Foreign court relief refers to litigation brought by foreign investors in the courts of other countries after a dispute has arisen, but this type of relief has significant drawbacks and in such cases the host country usually defends itself on the grounds of state sovereign immunity. International jurisdictional remedies are those where a permanent international judicial body binds the parties to a dispute based on international law and international or regional agreements entered into by the disputing parties as the legal basis or governing law, in accordance with the corresponding rules.

The quasi-judicial approach is also known as international arbitration settlement. The settlement of investor-host country investment disputes by international arbitration is a narrowly defined

investor-host country investment dispute settlement mechanism, which is a procedural mechanism and is a provision provided for in international investment agreements, bilateral investment agreements or other treaties dealing with investment provisions. On the basis of this provision, when a host government implements policies that adversely affect the standard of treatment expected by a foreign investor on the basis of an investment agreement, or breaches a contract entered into with the investor, thereby causing economic loss to the foreign investor, the foreign investor has the right to seek redress through arbitration before an international third-party arbitral tribunal for disputes of the type previously provided for in a convention or treaty, providing the investor with a fair hearing and an opportunity to be heard before an independent, neutral and competent tribunal. For example, the ICSID investment arbitration case *Tza Yap Shum v. Peruvian Government*^[11]. This case is the first case in which a Chinese investor has brought a case against a government under the ICSID arbitration mechanism. In 2004, the Peruvian National Tax Administration conducted an audit of TSG and imposed a series of interim measures, which caused serious economic losses to TSG, and Tza Yap Shum argued that Peru's actions constituted an unjustified indirect expropriation of the investment^[12]. After a hearing by the ICSID Arbitration Tribunal, it was held that the imposition of the provisional measures by Peru constituted an indirect expropriation of Tza Yap Shum's investment.

1.3 Dispute resolution mechanisms between investors

The main commercial dispute resolution mechanisms in the “Belt and Road” are international commercial arbitration, international commercial litigation and international commercial mediation. Arbitration and international tribunals are currently the more common means of resolving commercial disputes.

Arbitration is usually divided into two types: institutional arbitration and Interim arbitration. In institutional arbitration, the parties to a dispute may choose an arbitral institution by mutual consent in accordance with the agreement they have entered into, and the arbitral institution generally has well-developed arbitration rules. The arbitral tribunal decides the dispute in accordance with the arbitration rules and such awards are also authoritative. Interim arbitration are more flexible in their composition than arbitral institutions.

In terms of the international litigation system, as the construction of the “Belt and Road” project continues to advance, the courts are receiving more and more disputes relating to the “Belt and Road” project. Some of the better known international courts include the Singapore International Commercial Court, British Commercial Court, Dubai International Financial Center, etc.. China has also established the First and Second International Commercial Courts in Shenzhen and Xi'an respectively. The International Commercial Court will apply a wide range of rules, including not only the rules of international law, such as international trade, investment, financial law and international commercial rules, but also the laws of individual countries. The jurisdictional function of this International Commercial Court is to innovate within the framework of the civil procedure law and to actively reform the mechanism of litigation evidence from the perspective of facilitating litigation and providing convenient and accessible litigation services to the parties. The establishment of the International Commercial Court provides a strong judicial guarantee for the construction of the "Belt and Road".

2. The Evaluation of current Dispute Settlement Mechanism

2.1 Dispute settlement mechanisms between states – Bilateral Investment Agreement

Although China's BIT texts also contain dispute settlement provisions, these old versions of the BIT have a number of problems that make it impossible to properly resolve disputes arising from Belt

and Road investments. (a) The dispute settlement provisions are old and conservative. According to the UNCTAD website, of all the BITs signed between China and foreign countries that are still in force, 31 were signed between late 1970 and 1995; 19 were signed between 1995 and 2003; and 7 have signed BITs since 2003^[13]. Since 2003, although China has re-entered into BITs with several countries along the Belt and Road, and the dispute settlement provisions in the texts have been updated, they are still only on a small scale. In today's fast-changing world, a large number of BITs between China and the Belt and Road countries involve investment dispute settlement provisions that are outdated. (2) The scope of arbitrable dispute matters is small. At present, among the BITs signed between China and countries along the "Belt and Road", except for the China-Thailand BIT and the China-Turkmenistan BIT, all of them provide for investment arbitration mechanisms, but among the many BITs, the scope of disputes applicable to investment arbitration is very limited. In many BITs, however, the scope of investment arbitration is very limited. About 60% of the BITs provide that only "disputes concerning the amount of compensation for expropriation" can be submitted to arbitration. (3) Lack of operability of dispute settlement procedures. The first clause of the BIT dispute settlement provisions signed by China provides for "friendly consultation" as a precondition for resorting to international arbitration or judicial proceedings. However, the provision on "friendly consultation" is only in principle, and the details of how to conduct consultation, as well as the duration and venue of consultation, are vague. Only in the Russian-Chinese BIT are detailed provisions made, and the specific formulation of these friendly consultations varies considerably and the language lacks uniformity. The "friendly consultation" clause is too abstract, which will lead to ambiguity in the understanding of the ways and means of consultation between the two parties to the dispute and greatly reduce the efficiency of dispute settlement.

The "Belt and Road" initiative has its own special characteristics. On the one hand, the countries along the "Belt and Road" are politically, economically and culturally diverse, and most of them are developing countries. The World Trade Organization (WTO) dispute settlement mechanism is generally accepted, but due to its own shortcomings, coupled with the special characteristics of the "Belt and Road" Initiative, there will be certain difficulties in applying the WTO dispute settlement mechanism directly to disputes between countries along the "Belt and Road". The WTO dispute settlement mechanism has some shortcomings of its own, mainly in terms of the right to decide on third-party accession in the consultation process, the part-time and heavy mandate of the panel members, and the emphasis on retaliation rather than compensation in the enforcement process. Firstly, the accession of third parties provides that during the consultation process, third parties may request to join the first phase if they consider that the content of the consultation concerns their actual interests. The right to decide on the inclusion of third parties rests with the parties to the dispute, not with the DSU, and the parties are not required to give reasons if they disagree, which may lead to abuse of the right to arbitrarily deny third parties access to the consultation process. Secondly, panel members only work part-time on WTO cases and have a heavy workload, not only communicating with the parties, but also forming panel reports and so on, which inevitably leads to great pressure. Thirdly, the enforcement process is more about retaliation than compensation. The suspension of concessions is often referred to as a retaliatory measure, and the use of retaliatory measures can have obvious negative effects, especially on developing countries.

2.2 Investor-Host State Dispute Settlement Mechanisms

The first is the erosion of the host country's judicial sovereignty by the host country dispute arbitration mechanism. Administratively, if an administrative act of the host country, whether based on discrimination or normal regulatory action, has a negative impact on the interests of the investor, the foreign investor is likely to apply to an international arbitration institution for arbitration. In the

legislative context, the arbitral tribunal will make a determination as to whether certain legislation that falls within the internal affairs of the host country is in breach of the relevant treaty and require the host country to cease its conduct or even to reject the country's legislation. Judicially, the arbitral tribunal examines whether the actions of the host country's judiciary are consistent with international law. Secondly, there is no continuity in arbitral awards. For example, two arbitral tribunals render different awards in the same case. The discontinuity of arbitral awards has a very negative impact on the investor-host country dispute settlement mechanism, just as the law should have stability, so should investment arbitration. Only when the continuity and stability of arbitral awards is established will the parties to the dispute have confidence in investment arbitration. Also, there is a lack of transparency in the arbitration process. The administrative acts of a government involved in a case are usually acts of administration directed at society, and acts of public administration often involve significant social public interests. As a result, the general public and social organizations reflecting their interests, who have a close relationship with this important social public interest, usually have no access to the content and process of the arbitration and are unable to defend their rights and interests in a timely manner, to which they are legally entitled. In addition, due to the lack of transparency in the process, the public may have doubts about the fairness of the case, such as the fairness of the case procedure, the choice of the applicable law, and whether there is backroom dealing between the parties. All of these can affect the credibility of the award and, in turn, the authority of the entire investor host country dispute settlement mechanism itself.

2.3 Dispute resolution mechanisms between investors

The current arbitration system in China is flawed. Firstly, arbitration is supposed to be a product of party autonomy, but China's arbitration institutions are not independent and they are subject to the intervention of administrative bodies, making it difficult to demonstrate the advantages of arbitration. Most arbitration institutions rely on financial support from the government and their income is managed by the finance department. This model follows the administrative model of the executive, which weakens the independence and civil nature of the arbitration mechanism itself and completely loses the vitality and momentum that arbitration institutions should have for their own development. Secondly, there is a lack of integrity mechanisms for the parties in China. Ad hoc arbitrations require a high level of integrity on the part of the parties to the ad hoc arbitration, but the overall level of integrity in China has not reached a correspondingly high level, so the ad hoc arbitration mechanism in China does not have a suitable nurturing environment. Thirdly, there is a lack of professionalism in the arbitration team. In ad hoc arbitration, the parties can appoint their own arbitrators, which helps to truly share arbitration resources internationally, and some Chinese arbitrators are still lacking in professionalism and relevant knowledge, and the outcome of the arbitration depends to a large extent on the ad hoc arbitrators.

The dispute resolution mechanism through international tribunals also has certain shortcomings. With the expansion of connectivity in the "Belt and Road" project, the connections in foreign civil and commercial relations are diversified and transnational in nature. Conflicts of jurisdiction are bound to arise between China and the countries along the "Belt and Road". Conflicts of jurisdiction will bring certain damage to the parties' rights and cause conflicts between the judicial sovereignty of different countries.

3. Recommendations

Based on above analysis, since most of the countries along the "Belt and Road" are developing countries with different national conditions, politics and laws, the direct application of the existing dispute settlement mechanism is not a good solution to the disputes under the "Belt and Road". In

view of the problems arising from the above analysis of the existing dispute settlement mechanisms, the author makes the following suggestions in order to resolve disputes under the “Belt and Road” in a more targeted manner.

3.1 Disputes between States

The first step is to strengthen the interstate dispute settlement mechanism in the BITs signed by China should also be improved. China has signed BITs with 62 of the 65 countries along the route. Although China's BITs also contain dispute settlement provisions, there are many problems with the old versions of these BITs that make it impossible to properly resolve disputes arising from Belt and Road investments. An analysis of the interstate dispute settlement mechanism in BITs signed by China reveals that the following points should be noted in order to improve the interstate dispute settlement mechanism in investment agreements: First, the scope of application of the dispute should be clarified. The main point is to clarify the scope and meaning of "disputes" and to avoid positive abuse or negative avoidance of dispute settlement mechanisms. Second, refine the interstate dispute settlement rules to improve operability. The interstate dispute settlement mechanism in the BITs signed by China is too simple in its formulation, with no provisions on the concrete implementation of consultation or diplomatic channels and rules on arbitration procedures. Thirdly, the relationship between inter-state arbitration and investment arbitration should be harmonized.

Secondly, to strengthen the signing of regional trade agreements with countries along the “Belt and Road”, and to sign bilateral or multilateral trade agreements with each country along the “Belt and Road”, and to develop and refine dispute settlement mechanisms in trade agreements more precisely according to the country's national conditions. The dispute settlement mechanism should be more precisely tailored to the country's situation. The dispute settlement mechanisms currently provided for in regional trade agreements are not perfect. In the case of arbitration, the legal means of dispute settlement in RTAs is not effectively used in the settlement of trade disputes. For this procedure to be truly effective, it needs to be improved in the following areas. First, the establishment of a roster of experts. Almost all FTAs have some conditions and criteria for the composition of the tribunal, but there is no established roster of experts. The establishment of a defined roster would enhance procedural convenience, and the provisions on the composition of the tribunal could be modelled on the provisions of the World Trade Organization dispute settlement mechanism for panels. Secondly, an appeals mechanism could be added, which could also be modelled on the World Trade Organization's dispute settlement mechanism. The absence of an appeal mechanism leaves a party to a dispute challenging an arbitration report with no recourse. Therefore, it is necessary to set up a review rule based on the World Trade Organization's appeal mechanism. Thirdly, the supervision of the enforcement of arbitral awards should be strengthened. Arbitral awards are made after strict procedures and a long period of time, and if they are not effectively enforced in the enforcement process, it is inevitable that the work is lost.

3.2 Investors and host countries

The first step towards the efficient resolution of investment disputes between investors and host countries is to improve the bilateral investment agreements between countries. Whether a dispute can be submitted to investment arbitration depends on the terms of the bilateral investment agreement with the host government. If there is a well-developed investment agreement between the countries along the route that provides for universal investment dispute resolution, then it will lay the foundation for the effective operation of the "Belt and Road" dispute resolution mechanism, and the international investment agreement between the investor's country and the host country is the most preferred basis for dispute resolution, regardless of the dispute resolution method used. Improvements

to BITs can be made in the following ways. (i) Establishing a special chapter to provide for an "investor-host country" dispute settlement mechanism. In the early BITs signed by China, there were no provisions on how disputes between investors and host countries should be settled. The Swedish-Chinese BIT (1982), for example, does not provide for an ICSDS clause. In contrast, the Canada-China BIT (2012), signed in 2012, establishes Part III, a comprehensive investment dispute settlement mechanism to regulate the settlement of disputes between investors and host countries arising from investment. (ii) Refinement of the matters in dispute that may be submitted to international arbitration. (iii) Emphasis on the status and role of the law of the host State in international arbitration and on the premise that international arbitration is subject to the exhaustion of local remedies in the host State.

Secondly, the construction of alternative dispute resolution (ADR) mechanisms should be strengthened, mainly including consultation, mediation and conciliation. In consultation and mediation procedures, both the determination of the facts of the breach and the interpretation of the treaty are relatively lenient, and there is always the possibility that the investor and the host country may compromise on certain aspects in the course of an amicable settlement. There is no doubt that consultation and mediation can resolve disputes in an efficient and cost-effective manner. Consultations can be organized by a third party, but they should be conducted independently by the investor and the host country, with the third party only providing organization and coordination and not intervening in the consultation process. The objective of reducing dispute resolution costs is to promote the use of consultations as an efficient and cost-effective means of settlement wherever possible. If within the time limit for consultations, the parties are unable to reach agreement, or during the consultations, either party considers that there is no need to continue the consultations, the parties may proceed to mediation or directly to arbitration proceedings, as appropriate. Unlike consultations, mediation is not a mandatory part of dispute resolution, but given its significant role in the efficient and cost-effective resolution of disputes, it is important to make full use of the mediation mechanism. If consultations are unsuccessful, the ADR mechanism is required to organize mediation between the parties whenever either of them wishes to enter into mediation proceedings, which they must accept. However, a distinction is made between mediation by consent of one party and mediation by both parties in terms of the duration of the mediation.

For arbitration mechanism, in the context of arbitration mechanisms affecting the judicial sovereignty of the host country, the principle of respect for the autonomy of the parties should be upheld, first and foremost. It is necessary to uphold the principle of respect for the autonomy of the parties, who have the right to agree in advance in the concession agreement and documents of the same nature on the applicable rules for the settlement of disputes, which may be applied by the parties to the host country law, the law of the home country of the investor, the law of a third country or international law. Secondly, given that the existing investor-host country arbitration mechanism is subject to "legitimacy" doubts for three very important reasons: the discontinuity of awards, the low transparency of the arbitration process and the erosion of the host country's judicial sovereignty by the investor-host country dispute arbitration mechanism. The investor-host country arbitration mechanism under the "Belt and Road" must therefore strive to overcome these problems. The credibility of the entire dispute resolution mechanism is dependent on its continuity, and if a dispute resolution process lacks predictability over time, it will eventually lose the confidence of its users, thus making the mechanism lose its authority^[14]. In this regard, the parties could clarify the arbitration process in the investment treaty, setting out detailed and strict rules on the various stages of the arbitration process. A panel of experts could also be established to provide a professional interpretation of the arbitration clause to avoid arbitrary interpretation by the arbitral tribunal. In terms of improving the continuity of awards, in the settlement of investment disputes in a host country, the parties may request the arbitral institution to use expedited arbitration procedures in order to resolve the dispute quickly. With regard to the low transparency of the arbitration process, moderate

public access to arbitration proceedings. The opening of arbitration proceedings to the public both increases public awareness of investment disputes, particularly those involving public interest, and grants the public the right to consider and assess the legality and legitimacy of arbitration proceedings, which can effectively enhance public trust in investment arbitration.

3.3 Disputes between investors

The first is to improve China's ad hoc arbitration system. Although China's arbitration law does not explicitly recognize ad hoc arbitration, it has become an internationally accepted form of arbitration. The construction of ad hoc arbitration is of great importance in improving China's arbitration system and promoting China as a well-known international commercial arbitration center. The construction of ad hoc arbitration is also necessary for building a good investment environment. The implementation of China's "going out" policy has given rise to many international investment disputes. Whether the Chinese arbitration mechanism can be trusted by foreign investors is still a challenge that needs to be addressed. The construction of the Shanghai Pilot Free Trade Zone (FTZ) and other FTZs shows that China is actively seizing the right to formulate new economic and trade rules, and that the law must keep pace with economic development. The first is to promote institutional arbitration reform. Arbitration is originally a product of party autonomy, but as institutional arbitration in China has long been subject to the intervention of administrative bodies, the civil and autonomous character of the arbitration system has long been obscured, making it difficult to demonstrate the range of advantages of arbitration. Secondly, to improve the conditions of qualification and the conduct of arbitrators in office. It is common international practice to require only that arbitrators have full capacity and not to impose special qualifications. This is out of respect for the autonomy of the parties, who will try to choose arbitrators with high competence and a strong moral sense for their own benefit. China can give the parties the right to choose commercial arbitrators, as arbitration itself is contractual in nature, and the autonomous choice of arbitrators can reflect the autonomy of the parties, for which the state should reduce the corresponding restrictions. Thirdly, the monitoring mechanism for ad hoc arbitration should be improved. If the system of ad hoc arbitration relies solely on the autonomy of the parties, it is prone to exceptional circumstances, such as when one party is unwilling to cooperate and it is difficult to keep the arbitration going. We therefore need to establish a supervisory mechanism to deal with such situations. Consideration could be given to strengthening control over the development of ad hoc arbitration through the establishment of an arbitration association. The establishment of an arbitration association would strengthen the professional management of arbitration centers, help to protect the rights of arbitrators and play a supervisory role in the profession.

Secondly, establish an international commercial court in China. In order to ensure that judgments of international commercial courts are recognized and enforced, China needs to move away from "factual reciprocity" to "legal reciprocity". For example, by promoting the signing of the Hague Convention on Choice of Court Agreements, the parties will be given the right to choose a court to resolve their disputes, so that the recognition and enforcement of judgments will have a legal basis. If the decisions of the courts of the many countries along the "Belt and Road" cannot be enforced between countries, this will limit judicial efficiency. Only by giving a broader definition to the principle of "reciprocity" can ensure that the decisions of China's international commercial courts are widely recognized. Reciprocal enforcement of court decisions can be ensured through reciprocal or bilateral agreements between commercial courts and foreign commercial courts, as in the case of the Singapore International Commercial Court, which has signed the Reciprocal Enforcement of Judgments of Federal Courts Act, enabling judgments to be recognized and enforced in Commonwealth countries. In addition, the impartiality of decisions should be guaranteed as a means

of reducing political risk. The political influences on national conditions vary from country to country, and it is important to ensure that litigation tilts the balance of interests as much as possible in favor of national commercial subjects. Most of the countries along the “Belt and Road” are developing countries, and the rule of law is yet to be improved. Mutual enforcement of court decisions can be ensured by means of reciprocal or bilateral agreements between commercial courts and foreign commercial courts. The main purpose of China's International Commercial Court is to resolve international commercial disputes, serve the construction of the "Belt and Road" and respond to the trend towards the independence of commercial trials. China is now in the early stages of the operation of the International Commercial Court (ICC) and should focus on establishing a solid theoretical framework as well as a solid institutional framework, and further clarifying the operating mechanism of the ICC. In addition, attention should be paid to improving the system of the International Commercial Court, including the formation and management of the International Commercial Experts Committee, promoting the recognition and enforcement of judgments of the International Commercial Court, and making further efforts to improve the healthy interface between the International Commercial Court and other dispute resolution methods such as mediation and arbitration.

4. Conclusion

From the proposal of the "Belt and Road" initiative in 2013 to the present, investment activities in the region have grown to a new height. The joint construction of the "Belt and Road" is not only an opportunity for China to further develop its economy and enhance its international status, but also a new driving force for the economic development of countries in the region. With more and more investment activities in the “Belt and Road” region, there will be more and more investment disputes caused by them, and countries in the region will face more and more challenges in the settlement of investment disputes. Therefore, this paper analyzes the current situation and shortcomings of the dispute settlement mechanism in the "Belt and Road" region, in order to explore the basic ideas and specific measures to improve the "Belt and Road" dispute settlement mechanism. The "One Belt, One Road" policy involves a wide range of countries, and there are many countries participating in it, and the economic, political and cultural differences between the countries are obvious. When resolving various disputes, the dispute settlement mechanism is mainly divided into two categories: political settlement and judicial settlement. Under the political settlement method, the settlement of various disputes mainly depends on the bilateral and multilateral investment agreements signed between countries. Therefore, improving the signing of bilateral and multilateral investment agreements has profound significance for the establishment of an effective "Belt and Road" dispute settlement mechanism. The establishment of alternative dispute resolution mechanisms should also be strengthened, mainly including consultation, mediation and mediation, such as consultations organized by a third party. In terms of judicial settlement, arbitration is currently the main mechanism for resolving disputes along the Belt and Road. Perfecting the establishment of an arbitration mechanism applicable to the “Belt and Road” is conducive to promoting the implementation of the “Belt and Road” policy, such as the establishment of an expert group and the improvement of China's ad hoc arbitration system. In addition to arbitration, the construction of international courts should also be strengthened and improved, such as the establishment of an international commercial court in China and the improvement of its operating rules. The author believes that through the improvement of the "One Belt, One Road" dispute settlement mechanism, the better implementation of the "One Belt, One Road" policy can be promoted.

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