

Opening Remarks
Trade dispute resolution in Asia and the Pacific: insights and policy challenges

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17 June 2021

It's my pleasure to welcome you today to this discussion on the topic of dispute resolution mechanisms in the Asia Pacific. It's an important topic and we have a distinguished panel to present some thoughts on its relevance to the region. I'd also like to thank our colleagues from the Office of the General Counsel (OGC) and the Economic Research and Cooperation Department (ERCD) for organizing this event.

Dispute resolution mechanisms are a fundamental part of the trade system. They provide a structured process to settle a dispute between two governments when one of them is believed to have violated a commitment made in the WTO or under other agreements.

Why is this an important and timely discussion?

Firstly because the multilateral trading system is under threat. The WTO has struggled with rule-making over this century and that in turn has put pressure on the dispute settlement system. You have no doubt all read about the suspension of the WTO's Appellate Body, a key element of the dispute settlement system. I suspect that the prospects for rejuvenation of the WTO as a body to negotiate market access and rules, monitor commitments and policies, and resolve disputes, is very much in the balance, and in any event will take a number of years to realise.

This is a matter that should be of profound concern. An open global economy supported by a healthy and well-functioning multilateral trade system is very much the best outcome for the region. It will most securely connect the region to global markets and standards and provide a set of rules that reflect this – and importantly, which protect smaller players from the predations of the most powerful. The ADB's aspiration for the prosperity of the region will be harder to realize without such a system, whatever we are able to do bilaterally or regionally.

Secondly, protection is increasing. COVID-19 has raised questions on the resilience of global supply chains during a time of great disruptions. As regional trade relations resume, great uncertainty still persists, including adjustments to regional and global supply chains and trade tensions between the world's largest economies. We are seeing an increase in protectionist sentiment and policies, often cloaked in nationalist rhetoric. It's important to re-establish predictability on trade relations, including through credible enforcement of trade rules and effective dispute resolution mechanisms. The future must not be to turn inward, but to ensure openness and integration with global markets and capital.

Thirdly, and turning to today's discussion, over the last three decades the Asia Pacific region has witnessed the flourishing of bilateral and regional trade agreements, or FTAs and RTAs. Partly this is because the WTO has struggled to keep pace with the emergence of global supply chains and different patterns of production and trade, and with issues that go beyond the border. Many economies are already connected through such agreements and larger plurilateral regional agreements have emerged. The Trans Pacific Partnership represents the most advanced regional trade agreement, encompassing many advances in areas of trade interest. And it's now been joined in November last year by the Regional Comprehensive Partnership Agreement.

These agreements offer significant opportunities, but also challenges. They progress trade liberalization and set rules related to new parts of the economy and modes of production and exchange. They can deliver significant economic gains. But they risk fragmentation of the trading system, multiplication of rules and processes and an increase in transaction costs, and erosion of coherence. Conflicts between RTA and WTO provisions may arise in the process.

Can smaller or medium size economies use dispute settlement in an environment where power might be more asymmetric than in a multilateral body? How do we ensure that dispute resolution in regional agreements both grapples with new issues – reflecting the advanced commitments made in those agreements – and complements and adds to the rules and emerging body of jurisprudence built in the 70 years of the GATT and the WTO.

We hope the discussion today will shed light on the current landscape of dispute settlement provisions in the Asia Pacific region, and help guide ADB's efforts to build capacity among DMCs.

To discuss these questions I'd now like to introduce Mr Rambod Behboodi, counsel in international trade law and dispute resolution to give his presentation. That will be followed by a panel discussion with our other distinguished guests. I look forward to contributions from our speakers and participants.

Thank you.