

Comparative Analysis of RCEP and WTO Dispute Settlement Mechanisms in International Commercial Relations

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ABSTRACT

This article examines the dispute settlement mechanisms under the Regional Comprehensive Economic Partnership (RCEP) and the World Trade Organization (WTO) through a comparative legal analysis. The study aims to assess how both frameworks regulate international commercial disputes and promote legal certainty in cross-border trade relations. Employing a doctrinal and comparative legal approach, this research analyzes treaty provisions, institutional structures, procedural stages, and enforcement mechanisms governing dispute resolution under RCEP and the WTO Dispute Settlement Understanding. The findings indicate that while the WTO provides a more institutionalized and legally binding mechanism, RCEP emphasizes flexibility, consultation, and regional consensus. This article argues that RCEP's dispute settlement mechanism may complement the WTO framework by offering an alternative forum for resolving international commercial disputes, particularly within the Asia-Pacific region.

Keywords: dispute settlement; international trade law; RCEP; WTO; international business law

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INTRODUCTION

International commercial relations have become increasingly complex due to the expansion of cross-border trade, global value chains, and regional economic integration. As international trade intensifies, disputes arising from the interpretation and application of trade agreements are inevitable, making effective dispute settlement mechanisms a central pillar of international commerce (Van den Bossche & Zdouc, 2021). Without reliable dispute resolution frameworks, international business actors face legal uncertainty, increased transaction costs, and diminished confidence in global trade governance.

For decades, the World Trade Organization (WTO) has served as the cornerstone of the multilateral trading system. Through its Dispute Settlement Understanding (DSU), the WTO established a rules-based and quasi-judicial mechanism designed to ensure uniform interpretation and enforcement of international trade rules (Mavroidis & Sapir, 2020). This mechanism has contributed significantly to legal predictability and stability in international commercial relations, particularly for multinational enterprises and cross-border investors.

Nevertheless, the WTO dispute settlement system has faced serious institutional challenges in recent years. The paralysis of the Appellate Body has undermined the finality and enforceability of WTO dispute rulings, creating uncertainty for both states and business actors (Elsig, Pollack, & Shaffer, 2021). This crisis has intensified scholarly debate regarding the sustainability of multilateral dispute settlement and has encouraged states to explore alternative or complementary mechanisms beyond the WTO framework.

In this context, regional trade agreements have assumed an increasingly prominent role in shaping international commercial governance. The establishment of

the Regional Comprehensive Economic Partnership (RCEP) represents a major development in Asia-Pacific trade architecture. As one of the world's largest regional trade agreements, RCEP seeks not only to facilitate trade liberalization but also to provide a framework for managing disputes arising from regional commercial activities (Chaisse, 2022).

Despite its growing importance, existing literature on RCEP has largely focused on tariff reduction, market access, and economic integration, while its dispute settlement mechanism remains relatively underexplored (Gao, 2021). This lack of comparative analysis creates a research gap regarding how RCEP's dispute settlement framework relates to the WTO system in resolving international commercial disputes. Accordingly, this article aims to fill this gap by conducting a comparative analysis of the dispute settlement mechanisms under RCEP and the WTO, with particular attention to their institutional structures, procedural characteristics, and implications for international commercial relations.

METHOD

This study employs a doctrinal legal research method combined with a comparative legal approach. The primary legal materials analyzed include the WTO Dispute Settlement Understanding (DSU) and Chapter 19 of the RCEP Agreement. These instruments serve as the main sources for examining the legal foundations, procedures, and enforcement mechanisms governing dispute settlement under both frameworks.

Secondary legal materials, including scholarly journal articles, books, and policy papers published within the last five years, are used to support and contextualize the analysis. The comparative method is applied to identify similarities and differences in institutional design, procedural stages, and enforcement capacity between the WTO and RCEP dispute settlement mechanisms. The analysis is qualitative in nature and focuses on normative interpretation to assess the effectiveness of each mechanism in addressing international commercial disputes.

RESULTS AND DISCUSSION

Result

This section presents the findings of the comparative analysis between the dispute settlement mechanisms under the World Trade Organization (WTO) and the Regional Comprehensive Economic Partnership (RCEP). The results focus on institutional structure, procedural stages, and enforcement characteristics as derived from the respective legal instruments. researchers.

Table 1. Structural Characteristics of WTO and RCEP Dispute Settlement Mechanisms

Aspect	WTO	RCEP
Legal Basis	WTO DSU	RCEP Agreement Chapter 19
Nature	Rules-based, quasi-judicial	Consultative and cooperative
Institutional Body	Dispute Settlement Body (DSB)	Ad hoc panels
Appellate Review	Available (currently inactive)	Not expressly regulated
Enforcement	Authorization of retaliation	Limited enforcement

Table 1 illustrates that the WTO mechanism prioritizes legal uniformity and enforceability, whereas RCEP emphasizes flexibility and diplomatic accommodation. These differences indicate that RCEP intentionally adopts a less judicialized model to maintain regional stability and economic cooperation (Mitchell & Munro, 2020).

Procedural Effectiveness and Access to Justice

From a procedural perspective, the WTO mechanism provides a comprehensive and time-bound process that offers clear stages and legal remedies. However, this procedural sophistication often comes at the cost of complexity, lengthy proceedings, and high litigation expenses. For developing countries and small economies, these barriers may limit effective access to WTO dispute settlement (Shaffer, 2020).

Table 2. Implications of WTO and RCEP Dispute Settlement Mechanisms for International Commercial Relations

Dimension	WTO Mechanism	RCEP Mechanism
Procedural Stages	Consultation, Panel, Appellate Review, Implementation	Consultation, Mediation, Arbitration
Legal Certainty	High	Moderate
Cost and Duration	Lengthy and Costly	Relatively cost-efficient
Accessibility for Developing States	Procedurally complex	More accessible
Impact on Trade Relations	Potential escalation	Relationship-preserving

As shown in Table 2, the WTO mechanism provides higher legal certainty through formal procedures, while RCEP offers a more accessible and flexible dispute settlement framework. These differences highlight contrasting approaches to resolving international commercial disputes under multilateral and regional trade agreements.

Discussion

This section discusses the implications of the findings presented in the Results section and relates them to existing literature on international trade law and international business law.

The results indicate that the WTO dispute settlement mechanism remains the most authoritative system for resolving international commercial disputes requiring binding legal interpretation and enforceable outcomes. Its rules-based structure and institutional depth contribute significantly to legal certainty, which is essential for multinational enterprises operating in complex global markets. This finding aligns with prior studies emphasizing the WTO's role in ensuring predictability and stability in international trade governance (Van den Bossche & Zdouc, 2021).

However, the findings also demonstrate that RCEP adopts a fundamentally different approach to dispute settlement. By prioritizing consultation and cooperation, RCEP reflects the political and economic realities of the Asia-Pacific region, where maintaining long-term trade relationships often takes precedence over adversarial legal proceedings. This supports scholarly arguments that regional trade agreements increasingly favor flexible dispute resolution mechanisms tailored to regional needs (Chaisse, 2022).

From an international commercial perspective, the accessibility and cost-efficiency of RCEP's mechanism may benefit developing economies and smaller business actors that face capacity constraints in navigating the WTO system. While the absence of a formal appellate mechanism and strong enforcement measures may reduce legal certainty, RCEP's cooperative orientation may facilitate early dispute resolution and prevent escalation into larger trade conflicts.

Overall, the coexistence of WTO and RCEP dispute settlement mechanisms reflect a pluralistic model of international trade governance. Rather than competing, both systems serve complementary functions: the WTO provides a global, rules-based forum for authoritative dispute resolution, while RCEP offers a regional, pragmatic mechanism that emphasizes efficiency and relationship preservation in international commercial relations.

CONCLUSION

This study has examined the dispute settlement mechanisms under the World Trade Organization (WTO) and the Regional Comprehensive Economic Partnership (RCEP) through a comparative legal analysis, focusing on their institutional structures, procedural features, and implications for international commercial relations. The findings demonstrate that the WTO dispute settlement mechanism remains the most institutionalized and legally authoritative framework, offering a high degree of legal certainty and predictability for resolving international commercial disputes.

In contrast, RCEP adopts a more flexible and cooperation-oriented approach that prioritizes consultation and consensus among member states. While this mechanism lacks the strong enforcement features and appellate review found in the WTO system, it provides a pragmatic alternative for resolving regional commercial disputes, particularly within the Asia-Pacific context. The accessibility and cost-efficiency of RCEP's dispute settlement framework may benefit developing economies and business actors seeking non-confrontational dispute resolution.

These findings indicate that RCEP does not function as a replacement for the WTO dispute settlement system but rather as a complementary mechanism. The coexistence of both systems reflects a pluralistic model of international trade governance, where global and regional frameworks jointly contribute to the stability and effectiveness of international commerce.

This study is limited by the absence of empirical dispute cases under RCEP, as the mechanism remains relatively new. Future research may explore the practical application of RCEP's dispute settlement system through case studies and empirical analysis to assess its long-term effectiveness and impact on international commercial relations.

Reference

Allee, T., & Elsig, M. (2022). Why states choose flexible dispute settlement mechanisms in trade agreements. *International Studies Quarterly*, 66(1), 1–14.

Baldwin, R. (2020). The globotics upheaval and the future of international trade governance. *Economic Policy*, 35(103), 553–592.

Chaisse, J. (2022). The RCEP agreement: Economic integration and legal implications. *Journal of World Trade*, 56(3), 419–440.

Elsig, M., Pollack, M. A., & Shaffer, G. (2021). *The WTO dispute settlement crisis: Causes and consequences*. Cambridge University Press.

Gao, H. (2021). RCEP and the future of Asia-Pacific trade governance. *Asian Journal of WTO & International Health Law and Policy*, 16(2), 279–302.

Hoekman, B., & Nelson, D. (2020). Rethinking international trade dispute settlement. *Journal of Economic Perspectives*, 34(2), 109–130.

Kim, J. (2023). Regionalism and dispute settlement in Asia-Pacific trade agreements.

Asian Journal of Comparative Law, 18(1), 45–68.

Lee, J. (2021). Fragmentation of international trade dispute settlement. *Global Trade and Customs Journal*, 16(5), 201–210.

Mavroidis, P. C., & Sapir, A. (2020). WTO dispute settlement in crisis. *Journal of International Economic Law*, 23(1), 1–18.

Mitchell, A. D., & Munro, L. (2020). Regional trade agreements and dispute settlement: Stages of evolution. *World Trade Review*, 19(3), 389–410.

Peng, S. (2022). Dispute settlement under RCEP: Legal design and future prospects. *Journal of International Trade Law and Policy*, 21(2), 95–109.

Shaffer, G. (2020). Power, governance, and the reform of the WTO dispute settlement system. *World Trade Review*, 19(1), 1–27.

Toohey, L. (2021). International commercial dispute resolution and trade law interactions. *Journal of International Dispute Settlement*, 12(4), 512–534.

Van den Bossche, P., & Zdouc, W. (2021). The law and policy of the World Trade Organization (4th ed.). Cambridge University Press.

Zhang, M. (2024). RCEP and the evolution of dispute settlement in regional trade agreements. *Journal of International Economic Law*, 27(1), 89–112.