

*The Asia-Pacific Regional
Mediation Organization (ARMO)
Initiative*

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Background

- *The ARMO Initiative was created in 2017 by a group of Asia-Pacific scholars and practicing lawyers.*
- *The goal of ARMO is the creation of*
 - *a regional intergovernmental organization for the amicable resolution,*
 - *through mediation, of all disputes between states (economies) of the Asia-Pacific Region,*
 - *not being limited to one treaty subject-matter but covering the full range of international issues.*

The Working Group

- Professor Chang-fa Lo, Professor Junji Nakagawa, Professor Julien Chaisse, Professor Jaemin Lee, Professor Lisa Toohey, Professor Rajesh Sharma, Mr. Joseph Wira Koesnaldi, Professor Tsai-yu Lin, Professor Tomohiko Kobayashi, Ms. Anuradha R.V., and Professor R. Rajesh Babu.
- Their tasks
 - To develop the idea and arguments
 - To draft the ARMO Agreement and Rules of Procedure
 - To promote the initiative

The Arguments

- Some Asia-Pacific States (Economies) are reluctant to bring contentious litigation (for example an ICJ case) so as not to have their sovereignty subject to an international mechanism that imposes an adjudicated solution.
- Some prefer not to internationalize their regional disputes.
- The WTO dispute settlement mechanism can only address WTO disputes.
- Regional dispute settlement mechanisms (such as those provided in FTAs) have limited jurisdiction (being only able to handle the specific FTA disputes, not other disputes).
- The newest reason: WTO AB is encountering problems.

The Features

- It is a regional inter-governmental organization.
- It provides neutral mediation facilities for Asia-Pacific States (Economies) to help handle their State-to-State (or Economy-to-Economy) disputes in a friendly, consent-based manner.
- The ARMO facility focuses on mutually-beneficial outcomes, rather than an exclusively “rule-based” process, thus recognizing the inherent interconnectedness of the issues in a dispute.
- ARMO is based entirely on consent — a dispute can only be mediated where the disputing parties expressly agree to the mediation process, and any mediated resolution will become binding only when the disputing parties agree to the terms of the settlement agreement.

The Features (continue)

- The “substantive rules” governing a dispute will not serve as the exclusive basis for the resolution of the dispute.
 - The most important task for the ARMO is to help the disputing parties find a mutually acceptable or advantageous solution to resolve their dispute.
- Procedural rules are designed to be flexible to avoid technical procedural issues and to allow the disputing parties to be the focus of the dispute resolution process, with the help of experienced mediators.
- ARMO services can be used by Asia-Pacific States (Economies) independently of any international agreement.
 - For instance, WTO or FTA Members can seek mediation of their dispute by ARMO, and have their agreed settlement implemented in the WTO or under the relevant FTA.

Credibility, impartiality, professionalism and trustworthiness built into the mechanism

- The organization only provides services. It does not have a power to dictate the substantive outcome of the dispute.
- The ARMO process is designed to be consensual, based on voluntary agreement between the disputing parties. No party can be forced to enter into the process, nor forced to accept any suggestion during the mediation.
- The procedure offers flexibility so as to accommodate the needs of different disputing parties, depending on the nature of their disputes. Mediators can be more active or less active, depending upon the mutual expectations of the parties.

Credibility, impartiality, professionalism and trustworthiness built into the mechanism

- The ARMO offers a panel of experienced mediators who are trained to professionally and efficiently assist in the resolution of complex international disputes.
- ARMO mediation is designed to offer parties a substantial return on investment.
 - Even where mediation cannot resolve all of the issues in dispute, it will still clarify and limit the scope of the dispute, so that parties can proceed more efficiently and economically to resolve the dispute through other fora.

Progress

- We have drafted and published:
 1. DRAFT “AGREEMENT ON THE ESTABLISHMENT OF THE ASIA-PACIFIC REGIONAL MEDIATION ORGANIZATION”
 2. Draft “Rules of Procedure for Mediation Conducted under the Asia-Pacific Regional Mediation Organization”
- Our working group members have informally contacted a number of governments (including Japan, Indonesia, Taiwan) to discuss the feasibility of the initiative. The initial responses were positive.

Progress

- Our members have also been contacting inter-governmental and non-governmental agencies/institutions to spread the idea.
- The followings are some examples:
 - Asian Development Bank has agreed to feature our project at an event late September.
 - An article on ARMO “*Project for Asia-Pacific mediation body shapes up*” was published (16 August 2018) in FDI intelligence magazine at <https://www.fdiintelligence.com/Locations/Project-for-Asia-Pacific-mediation-body-shapes-up> written by Jacopo Dettoni indicating that “A friendlier framework to deal with Asia-Pacific’s state-to-state disputes has now been proposed.”

Website

- Our ARMO website: <https://www.armomediation.com/>. We will come you to visit and make comment.
- Hoping for your inputs and supports.
- Thank you!