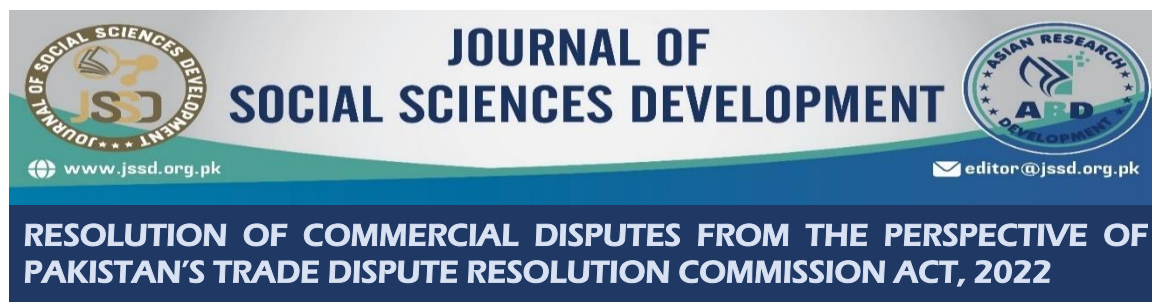


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KEYWORDS	ABSTRACT
trade disputes, arbitration, TDRC, Pakistan, UNCITRAL Model Law, New York Convention, commercial arbitration, mediation	<p>This paper is outcome of my research as Executive Director General of TDRC, Islamabad in year 2024-2025. I did research on the Act of the newly established institution and comparative institutes in other countries, problems in legal edifice of the organization and what can be done keeping our specific scenario. The paper critically examines Pakistan's Trade Dispute Resolution Commission (TDRC) framework under the Trade Dispute Resolution Act, 2022. Focus remains on its arbitration and mediation function, structure of the organization, and how far is it compatible with contemporary international commercial arbitration practice. It considers the relationship between the TDRC Act, the Trade Dispute Resolution Rules, 2026, the Arbitration Act, 1940, and Pakistan's implementation of the New York Convention through the Recognition and Enforcement (Arbitration Agreements and Foreign Arbitral Awards) Act, 2011. The paper identifies a structural ambiguity in matter of conflict with statutory reference to the 1940 arbitration regime and the Rules' reference to the UNCITRAL Arbitration Rules. It further examines the legal character of TDRC final determinations, and how they fit in the system of international dispute resolution, the mechanism and grounds of appellate review, whether arbitrators' qualifications are specified or left open, whether institution is independent and transparent, and whether there exist a mechanism of cross-border enforcement. Comparative observations have been reviewed from Singapore and the United Arab Emirates. Institutional and legislative lessons have been derived, particularly the value of a modern Model Law-based arbitration framework and a clear separation between administrative functions and independent adjudication. The paper concludes that Pakistan can strengthen the credibility and international usability of its trade-dispute mechanism by clarifying the arbitration framework, modernizing domestic arbitration legislation, considering enactment of mediation, improving institutional safeguards, and considering a dedicated arbitration and mediation center for international commercial disputes.</p>
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Introduction

Now a days international commercial disputes require an efficient, predictable, neutral dispute-resolution mechanisms that may provide quick outcomes and is capable of enforcement across jurisdictions. Arbitration is a much sought after channel of dispute resolution. Many countries have formed institutional infrastructure to facilitate international trade and investment disputes. These Arbitral institutions provide administrative frameworks within which independent tribunals conduct proceedings. National arbitration laws determine the legal framework governing the arbitration and ambit of the courts' supervisory role in handling arbitral awards. The New York Convention provides an important international foundation for the recognition and enforcement of foreign arbitral awards.

Against this background, Pakistan's Trade Dispute Resolution Commission (TDRC) represents an important institutional development in the resolution of trade disputes. The Trade Dispute Resolution Act, 2022 gives the Commission a broad mandate. It covers almost all channels of Alternate Dispute Resolution (ADR) for resolving international trade disputes. Negotiation, conciliation/mediation, arbitration, and final determinations all fall under ambit of the Commission. This institutional arrangement on the one hand provides ease and accessibility of all channels of trade dispute resolution under one roof but this dispensation makes the Commission wear many hats and at the same time it also adjudicates the cases to arrive at 'final determination'. The coexistence of the TDRC Act, the Trade Dispute Resolution Rules, 2026, the Arbitration Act, 1940, and the Recognition and Enforcement (Arbitration Agreements and Foreign Arbitral Awards) Act, 2011 provides a framework for dispute resolution. However, there are some ambiguities regarding procedural coherence, institutional independence, and the appropriate route for enforcement of arbitral awards with an international element.

This paper examines the TDRC framework and compares its selected features with established arbitration systems, particularly of Singapore and the United Arab Emirates. The objective is not to replace the existing trade-dispute mechanism, but to identify focused reforms that could make it more legally coherent and credible for domestic and international users.

Arbitration from the Global Perspective

Commercial disputes between private parties are now a days resolved through third party arbitration or mediation. However, the most preferred method in cross border disputes is still Arbitration. Mediation is also preferred because of its speed, efficiency, cost effectiveness, flexibility, and preservation of business relationships (as per Singapore International Dispute Resolution Academy (SIDRA) Survey 2024). The 2025 Queen Mary-White & 'Case Survey of Arbitration' says that 87% of the respondents prefer international arbitration either as a standalone mechanism (39%) or combined with ADR (48%). However, it is asserted that, it is not to say that mediation replaces arbitration or vice versa. The first survey tells user satisfaction whereas, second survey tells what user prefer in case of cross border issues.

The reason is no commercial entity want to litigate in other country's courts, hence International Chamber of Commerce (ICC), Court of Arbitration, London Court of International Arbitration (LCIA), Singapore International Arbitration Centre (SIAC) are readily used by the commercial entities. There is normally more speed and expertise with them than that in possession of the normal courts. Most of the countries ensure cross border enforcement using New York Convention (170 countries are signatories). According to the Business Disputes Register, over 90% of the arbitration cases are handled by 13 big institutions including ICC, SIAC, DIAC etc. (<https://www.disputesregister.org/advice/international-arbitration-statistics-report>). There is ease in enforcing arbitral awards than judgements of foreign courts. According to Global Arbitration Review (the world leading arbitration, news, research and intelligence service) new registered cases in 2024-2025 with big institutions are roughly between 10,000-12,000, whereas, China International Economic and Trade Arbitration Centre (CIETAC) handles almost half of the cases (however, domestic caseload is more). There is no medium value of the cases globally, but leading arbitral institutions publish their own figures annually. For ICC average amount in new cases is USD 5 million and is down from USD 130 Million of year 2024 (CMS International Law Firm). Normally when some big company goes in arbitration etc, this leads to automatic jump in the value.

United States' Federal Arbitration Act (1958), strongly favors enforcing arbitration clauses. Courts routinely compel arbitration and rarely vacate awards. Federal courts (not state) handles all cross border commercial litigation when the matter goes to the court. The London International Arbitration (LCIA), is one of world's oldest and prominent seat of arbitration is backed by strong arbitration Act (1996, later updated 2025). UK is preferred by commercial parties to the dispute, even if not related to UK. Germany has specialized commercial courts, the courts are fast. Germany has ratified New York Convention, and enforcement of foreign arbitral awards is straight forward. In China, the China International Economic and Trade Arbitration Commission (CIETAC) is the busiest arbitration institution, domestic caseload is more. However, still skepticism prevails in foreign parties in litigating in China.

Apart from above there is Singapore International Arbitration Centre (SIAC) and Singapore International Mediation Centre (SIMC). SIAC is not a court, it is an institution that conducts arbitration between the parties. The disputes are resolved by independent tribunal and not by the staff. The procedure runs in straightforward way. When there is arbitration clause in the agreement of the parties like that in case of dispute between the parties the matter will referred to SIAC. SIAC provides administrative procedural framework for the arbitration and arbitration award is implemented via New York Convention in other country. Case proceeds as a) request for arbitration, b) appointment of arbitrators, c) proceedings, d) evidence e) hearing f) award g) enforcement.

SIAC was established in year 1991. It is independent and not for profit body, governed by board of Directors comprising of senior lawyers, business figures with the function of developing overall strategy, operations and corporate governance and they are not involved in individual cases. There is secretariat that is full time consisting of people who are qualified in common and civil law

systems. The secretariat is responsible in day to day administration, finance and accounts. Supporting this structure is almost 800 arbitrators drawn from over 50 jurisdictions. Key to the structure of SIAC is separation of powers. The BoD looks after governance and strategies, the secretariat is place of operational execution and court looks after cases. This separation is crucial as to who does what and ensuring independence of case management.

SIMC was established in 2014, it is also independent and not for profit. It also has BoD (some members sits on both Boards i.e. SIAC and SIMC). It has same structure with Secretariat but it has no court layer. Since the mediation does not result in binding rulings as in case of arbitration. So there is just a 'Panel' rather than a 'Court'. However, cases can easily move in SIMC and SIAC through Arbitration Mediation Protocol (AMA). A case is resolved through mediation (it saves the cost) and it moves to arbitration centre and is converted to 'award'.

Dubai International Financial Centre (DIFC) is under its President. It has three institutes under it, Dubai Financial Centre Authority (it runs free zone, licensing and marketing), Dubai Financial Services Authority (it regulates banks, funds and insurance) and Courts (common law courts headed by independent judges under chief justice). 'Higher Board' exercise oversight over operations, compliance of best practices, and reviews strategies etc. The board of Directors administers the proceeding and arbitration is done by independent tribunals. Simply procedure is there is a request is made for arbitration, respondent responds, arbitrators are appointed, there is preliminary procedural meeting, and afterwards there are written submissions and evidence. Hearing is done if required, and then arbitral award is issued. It may be noted that DIAC like SIAC is just an administering institution and is the legal seat for arbitration. Recently, DIFC has through law created 'Mediation centre'. It has DIFC registered mediators.

In India, there is a serious problem of backlog of commercial cases and that is why arbitration is encouraged. India has amended Arbitration and Conciliation Act multiple times that is in 2015, 2019, and 2021. However, foreign parties still prefer outside arbitration as in London or in Singapore due to problems of judicial interference in enforcement. In 2022 Indian Finance Minister announced the creation of International Arbitration Centre at the GIFT City- a hybrid model of Arbitration, Mediation and online dispute resolution. However, it is still not established in year 2026. In Nigeria, Arbitration and Mediation Act in 2023 were modernized, still impartiality and enforceability is a question mark. Many companies still prefer London and Paris for arbitration.

From above it is evident that both developed and developing countries are relying on arbitration as way to resolve commercial/ trade cross border disputes. Developed countries have both efficient courts and at the same time strong arbitration infrastructure, giving choice to the parties. In developing countries due to slow legal process, there is general push toward arbitration and mediation. The New York Convention is a connective tissues that make enforcement of arbitral awards cross-border.

International trade disputes and commercial disputes between private parties in most of jurisdictions are resolved through private arbitration than domestic courts as process may be lengthy. However, the Governments play an active role in providing the institutional

infrastructure viz courts, arbitration centres, and enforcement law, that makes private dispute resolution viable and internationally credible, often as a deliberate instrument of trade and investment policy. Singapore's SIAC, the UAE's DIFC Courts and DIAC, and India's proposed GIFT City arbitration centre are widely cited examples of states treating dispute-resolution infrastructure as a component of national economic competitiveness. Pakistan's Trade Dispute Resolution Commission is no less different in this regard.

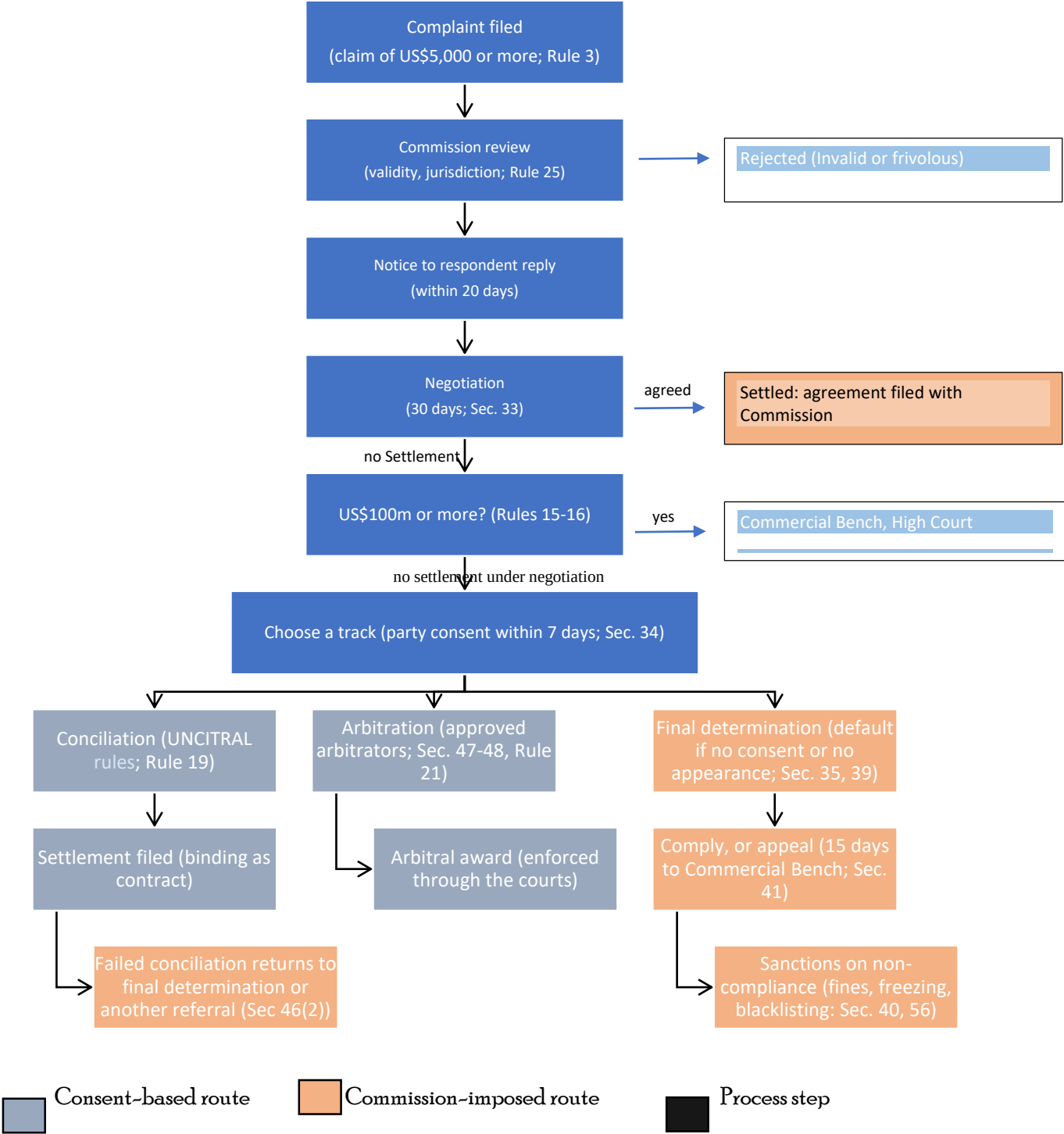
Trade Dispute Resolution in Pakistan

In Pakistan Trade Dispute Resolution Organization (TDRO) was officially established in 2015 under Strategic Trade Policy 2012-2015. Prior to that a wing in Export Promotion Bureau of Pakistan used to manage foreign complaints. The only way to settle disputes was through negotiations or discussions. Similarly, TDRO did not have any legal cover to resolve trade disputes or to enforce its decision. The gap was filled in by the creation of Trade Dispute Resolution Commission (TDRC) through an Act of the Parliament in the year 2022. TDRC replaced British era Import & Export (Control) Act, 1950 (replaces section 5A, 5B and 5C). In September, 2025 TDRC become a first ever functioning trade dispute resolution commission under five member commission (hiring process completed in 2025).

TDRC receives a complaint with a limit higher than USD 5000 and below USD 100 Million (complaints of or higher than USD 100 million go to Commercial Courts), the brief process is given below in a flow chart, shown in figure 1.

TDRC can allocate disputes to multiple tracks like to regional conciliation committees, mediation or arbitration and final determination by the Commission itself. The first step is negotiation and Commission facilitates the process of negotiation. Negotiation is supposed to conclude in 30 days (Rule-14 of SRO-522 dated 2026). If negotiations fail the parties can choose either conciliation, arbitration or Commission based determinations (rule-17 as per SRO-522). If there is lack of decision on the part of the parties as to the adoption of channel of dispute resolution, the Commission can proceed to final determination. The determinations of the Commission can be challenged in Commercial benches of the High Court. The Conciliation route is binding by the agreement (Rule 14(3)) and arbitration awards have their UNCITRAL framework as per rules (it may be noted that there is conflict between Act and SRO- 552(I)/2026 on this matters and the Act mention that Arbitration is to be under Arbitration Act 1940) and New York Convention (NYC) for foreign enforcement. Pakistan has implemented NYC in domestic law through Recognition and Enforcement (Arbitration Agreements and Foreign Arbitral Awards) Act, 2011 (the "NYC Act" / "REA"). Mediation is referred in the TDRC Act, but no procedure is set out. Further, mediation landscape is fragmented in Pakistan and standalone mediation Act is required. Further, there is no procedure outlining how decisions of mediation will be enforced.

Figure 1: Flowchart of Trade Dispute Resolution under the TDRC



Source: Trade Dispute Resolution Act 2022; Trade Dispute Resolution Rules 2026 (SRO-552(I)/2026)¹

New York Convention and Pakistan

The New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards was signed in year 1958 (New York Convention 1958 [NYCG], n.d.-b) and was entered in force in 1959. It is one of the important and the most successful instrument of private international law in governing commercial disputes. It is ratified by 172 countries (New York Convention, n.d.-a). Pakistan is also a signatory of this treaty. This Convention acquires significance to ensure enforceability of arbitral awards of the Commission (TDRC).

The Convention's operative obligations rest on a small number of core articles:

- Article I defines scope of the Convention. "It applies to the recognition and enforcement of arbitral awards made in the territory of a State other than the one where recognition is sought, and applies to such awards 'irrespective of whether that State is a Contracting State,' a deliberately broad default position (NYCG, n.d.-a).
- Article I(3) permits two optional reservations at the time of signature, ratification, or accession: "a reciprocity reservation (limiting application to awards made in other Contracting States only) and a commercial reservation (limiting application to disputes considered "commercial" under the reserving State's own law)."
- Article II requires a valid arbitration agreement in writing, covering a defined legal relationship, whether contractual or not.
- Article III obliges Contracting States to recognize arbitral awards as binding and enforce them according to the enforcing State's own procedural rules.
- Article IV sets out the documentary requirements for a party seeking enforcement that is the authenticated award and the original or certified arbitration agreement.
- Article V provides the exhaustive, narrow list of grounds on which recognition or enforcement may be refused.

A defining structural feature of the Convention, discussed is that it does not prescribe any particular procedural rules (UNCITRAL or otherwise) for how the arbitration itself must be conducted; it only requires that the actual procedure followed matches with the parties' agreement or, failing agreement, the law of the seat (Article V(1)(d)) i.e law of country of the arbitration.

¹ Note. The chart shows the main path. Not drawn: default allocation after 30 days or non-appearance (Sec. 34, 39; Rule 18); the 4-month determination deadline, extendable to 6 months (Sec. 35(4)); breach of a negotiated settlement as a new complaint (Rule 14(4)); further sanctions (Sec. 40, 51, 56); and the dependence of arbitral-award enforcement on the seat (Arbitration Act 1940 or Recognition and Enforcement Act 2011). Source: Trade Dispute Resolution Act 2022 and Trade Dispute Resolution Rules 2026 (SRO-552(I)/2026).

Though Pakistan was among the original signatories of the Convention, and signed Convention on 30 December 1958, but did not ratify until 14 July 2005. There was a gap of 47 years in signing and ratification (International Chamber of Commerce Pakistan [ICC Pakistan], n.d.; New York Convention, n.d.-c). Pakistan's ratification is reported to have owed much to the involvement of Syed Sharifuddin Pirzada, the then Senior Advisor to the President of Pakistan and a member of the ICC International Court of Arbitration (ICC Pakistan, n.d.). Upon ratification, Pakistan made only one of the two optional Article I(3) reservations available under the Convention: the reciprocity reservation. Pakistan's declaration states that "the Islamic Republic of Pakistan will apply the Convention to the recognition and enforcement of awards made only in the territory of "

"Contracting State" (New York Convention, n.d.-a). Pakistan did not make the commercial reservation. It means that Pakistan applies the Convention to any dispute falling within Article I's scope, not only to disputes considered "commercial" under Pakistani domestic law, a broader default position than that adopted by a substantial number of other Contracting States, including several of Pakistan's own regional trading partners. Pakistan's ratification was given domestic legal effect first through Ordinance No. VIII, the Recognition and Enforcement (Arbitration Agreements and Foreign Arbitral Awards) Ordinance, 14th July, 2005. This was subsequently replaced by primary legislation, the Recognition and Enforcement (Arbitration Agreements and Foreign Arbitral Awards) Act, 2011 (Act No. XVII of 2011).

It must be clarified that Pakistan has two Separate 2011 Arbitration Enforcement Acts. They are easily confused because of their similar names and shared enactment year. This distinction is important for TDRC, since it determines which enforcement pathway applies to TDRC-administered arbitral award:

Table 1: Statutory and TDRC Applicability of Pakistan's International Arbitration Framework

Statute	Convention Implemented	Scope	Relevance to TDRC
Recognition and Enforcement (Arbitration Agreements and Foreign Arbitral Awards) Act, 2011 (the "NYC Act" / "REA")	New York Convention, 1958	General commercial arbitration — covers foreign arbitral awards arising from any commercial dispute, including trade in goods and services. Not limited to investment matters (Global Arbitration Review, n.d.; nasirlawson.com, n.d.).	This is the correct enforcement vehicle for a properly constituted TDRC arbitral award with a foreign/international element — its scope already matches TDRC's trade-dispute mandate.
Arbitration (International Investment Disputes) Act, 2011 (the "AIID Act")	ICSID (Washington) Convention	Narrower — exclusively investor state disputes. Allows an ICSID award to be registered directly in a Pakistani High Court and enforced as a domestic judgment, with special rules for enforcement against government (Global Arbitration Review, n.d.).	Not applicable to TDRC's private-party trade disputes; relevant only if a dispute were instead an investor-state matter.

The enforcement framework for TDRC already exists through the REA. The remaining problem is (a) Section 47 of the TDRC Act does not clearly signal that a TDRC arbitral award with a foreign element should route through the REA/New York Convention framework rather than the domestic 1940 Act, and (b) Pakistani High Courts have already produced conflicting decisions on jurisdictional boundaries between the 1940 Act and the REA even without TDRC's added layer. For example, a civil court's initial treatment of a stay application under the 1940 Act was later redirected to the REA framework instead (Lexology, 2026; ADR.org, 2026). This reinforces the case for Amendment and for enactment of the pending Draft Arbitration Act, 2024 to remove this ambiguity at its source. This is important, because caseload of TDRC is of international nature (concerning export of goods and services). The Arbitration Act of 1940, has no concept of 'foreign' or 'international arbitration' or 'seat' etc. This act predates New York Convention of 1958. Routing trade dispute through institution of TDRC means routing trade disputes to an Act that was not written for foreign disputes. Only REA pathway can give automatic enforcement abroad and refusal of enforcement on very narrow grounds. An award that is produced under 1940 Act, has to be converted into domestic decree through separate proceeding in domestic courts and it is vulnerable to very broader challenge grounds than REA styled award.

The Article 6 of REA gives the Convention's Article III obligation domestic legal effect, asking Contracting States must enforce decision of arbitration in the same manner as a judgment or order of a court in Pakistan. As established in Section 3, Pakistani courts have since settled after a period of conflicting High Court decisions that the High Court holds exclusive jurisdiction to recognize and enforce a foreign award under the REA, and that the REA applies to arbitrations seated abroad while the domestic Arbitration Act, 1940 applies to arbitrations seated within Pakistan (following the Supreme Court's ruling in *Taisei Corporation v. Al-Meezan Construction*).

Implications for Arbitral Awards Issued Under or Through the Commission

Drawing together the Convention's structure, Pakistan's specific reservation, and the domestic implementation framework, several implications follow specifically for TDRC-administered or TDRC-referred arbitration:

- A TDRC arbitration seated in Pakistan and satisfying Article II (a valid written arbitration agreement) can, in principle, produce an award enforceable in any of the 172 Contracting States.

There is a question whether a TDRC-administered arbitration is treated under the REA (Convention-track enforcement) or the 1940 Act (domestic-track enforcement) depends on where the arbitration is seated, not on which body administered it. This is a further reason the Section 47/Rule 21 inconsistency matters: TDRC's own governing provisions do not clearly specify a seat, leaving open which of the two tracks — and which resulting enforcement pathway — actually applies to a given TDRC arbitration (*Taisei Corporation and another v. A.M.C. (Pvt) Ltd.* 2024SCMR 640, dated 28th Feb 2024). The case was between a Japanese Company and with AMC, which was a Pakistani company. The agreement said that seat of arbitration would be ICC in Singapore. The Japanese company got arbitral award in their favour, it was challenged by AMC

that the contract was governed by Pakistani law. Both Civil Court and High Court agreed with AMC. However, the Japanese company appealed to the Supreme Court. The court held that it is the seat of arbitration and not the governing law of the underlying contract, and not the nationality of the parties that determines whether award is foreign for the purposes of enforcement. Since arbitration was seated in Singapore the award was foreign under 2011 Act. This judgment also raises questions as what would happen to arbitral award between foreign company and Pakistani company if seated in Pakistan" (Seated but Unsettled American Review of International Arbitration, n.d, Columbia). This makes the case for pending draft arbitration Act, 2024.

None of the Convention's machinery described in this section applies to a Commission "final determination" (Sec. 35), a conciliated settlement (Sec. 46), or an administrative order (Sec. 40), are not arbitral awards arising from an Article II arbitration agreement (NYC), and therefore sit entirely outside the Convention's scope, regardless of Pakistan's ratification or reservation choices. This reinforces routing of consensual disputes to a dedicated arbitration centre as it is the more direct route to Convention-backed international enforceability than relying on the Commission's own non-arbitral determination track.

UNCITRAL Rules and Model Law

The Model Law was adopted by UNCITRAL on 21 June, 1985 and substantially amended on 7 July, 2006 (UNCITRAL, n.d.-). The United Nations General Assembly, in Resolution 40/72 of 11 December 1985, recommended that all States "give due consideration to the Model Law on International Commercial Arbitration, in view of the desirability of uniformity of the law of arbitral procedures and the specific needs of international commercial arbitration practice" (Jus Mundi, n.d.). It is not a treaty requiring ratification and creating binding international obligations, as the New York Convention does; rather, it is a template statute that a country can enact, in whole or in part, as its own domestic arbitration law. The Model Law provides a single consistent process to handle every stage of the arbitral process (UNCITRAL, n.d.-b):

- The arbitration agreement — its form and validity (Article 7)
- Composition of the arbitral tribunal — procedure of the appointment, how to challenge and remove arbitrators (Articles 10–15).
- Jurisdiction of the arbitral tribunal — codifying competence-competence dealing with the tribunal's power to rule on its own jurisdiction (Article 16).
- Interim measures — tribunal authority to order interim relief later and provisional measures.
- Conduct of proceedings — party autonomy to agree on procedure, with default rules where they have not, and equal treatment of the parties (Articles 18–19).
- The award and termination of proceedings — the law applicable to the dispute, decision-making by a tribunal panel of arbitrators, settlement between the parties, termination of the proceeding, issuance of the award, minor corrections in the award (if required), form and content of the award (Articles 28–32).

- Recourse against the award — Article 34 provides the grounds on which it can be challenged in the court. The grounds are narrow closely reminds of Article V of the New York Convention (Trans-Lex, n.d.).
- Recognition and enforcement — Articles 35 and 36 recognize an arbitral award as binding "irrespective of the country in which it was made"

As of the UNCITRAL Secretariat's official status record, 93 states have adopted this Model Law. Adopting jurisdictions include Germany (1998), Hong Kong (2010), Australia, Ireland (2010), and a substantial number of Canadian provinces since as early as 1986 (UNCITRAL, n.d.-c). The New York Convention does not require, prefer, or even mention UNCITRAL Rules as a condition of enforceability. This is not surprising once the timeline is considered. The Convention was signed in 1958, while the UNCITRAL Arbitration Rules were not published until 1976 and the UNCITRAL Model Law not until 1985. Enforceability under the Convention turns on three articles only as discussed in previous Chapter. No article of NYC requires that UNCITRAL Rules, the UNCITRAL Model Law, or any specific institution (ICC, SIAC, LCIA, or otherwise) has to be taken up for resolution of Commercial disputes. Parties may choose any procedural rules or none, in a fully ad hoc arbitration, and still obtain an enforceable award, provided the arbitration agreement is valid and the actual procedure followed matches what the parties agreed.

Most significant for the present analysis, India, our largest immediate neighbor and comparable common-law jurisdiction adopted the Model Law as the basis of its Arbitration and Conciliation Act as early as 1996, followed by Bangladesh in 2001 (UNCITRAL, n.d.-c). Pakistan, by contrast, has not yet done it. Draft Arbitration Act, 2024 remains pending nearly three decades after its principal regional comparators completed the same reform.

Significance of UNCITRAL Model Law is that it creates harmonization and predictability because dozens of jurisdictions are using it, it allows minimal or predictable court intervention, and it enhances the confidence of foreign parties. Pakistan should adopt the Model Law domestically. It would resolve, at the source, the seat-based confusion between the Arbitration Act, 1940 and the REA 2011 documented in this paper. It would provide a narrow and defined set of grounds for judicial intervention as per Article 34-36 rather than undefined appeal scope as Section 41 of TDRC's Act. It requires no novel domestic drafting effort, since the Draft Arbitration Act, 2024 is already Cabinet-approved and awaiting only National Assembly passage.

In short, the Model Law is not merely one option among several for modernizing Pakistan's arbitration framework, it is the specific instrument that both of the comparator jurisdictions examined in this paper (Singapore and the UAE) used to solve the same underlying problem Pakistan currently faces, and it is the instrument Pakistan's own Arbitration Law Review Committee has already chosen as the basis for the pending reform. The analysis in this paper treats passage of the Draft Arbitration Act, 2024 not as one recommendation among many, but as the precondition that determines whether several of the other amendments proposed in this paper can be implemented as intended.

Analysis and Critical Review of the TDRC

TDRC is a public body under Ministry of Commerce, this can raise concerns as to the operational independence of the body in matters regarding case administration, selection of arbitrators/mediators etc. (Section 4 to 8 of TDRC Act). It has been created with very broad mandate (Section 9 to 12 of TDRC Act). TDRC wears the cap of negotiation, conciliation, mediation, arbitration and final determination. The broad mandate though useful in accessing alternate dispute resolution from one platform, but can create role confusion as same body facilitates settlement, oversees arbitration and issues final determinations. The TDRC Act, 2022 gives powers to the Commission to hear disputes and decides them through ‘final determinations’ (which are not arbitral awards). These ‘determinations’ have no foreign consequences as ‘arbitral awards’ have in terms of New York Convention. When a commercial dispute is decided by the Commission itself, questions can arise concerning separation of institutional administration and adjudication, tribunal independence, evidentiary procedure and international users’ expectations (Section 17 to 25 of TDRC).

The TDRC Act talks about arbitration through Arbitration Act, 1940 (Section 47 to 48 of TDRC Act). The Arbitration Act, 1940 predates the enactment of NYC in domestic law in 2011. This is a major area for reform. That statute predates modern international arbitration practice and does not provide the same integrated institutional framework as contemporary SIAC, DIAC or other leading centres. A modern framework should address tribunal constitution (appointment procedure, number of arbitrators etc), what happens when one party refuses to appoint Arbitrator, competence-competence (whether tribunal decides its own jurisdiction), whether interim measures can be taken, handling of evidence/documents, method of conducting hearing (zoom etc), confidentiality, emergency arbitration, expedited procedure, consolidation/joiner and enforcement coherently. The SIAC has its own arbitration rules, 2025. Similarly DIAC has arbitration rules, 2022. These rules were developed after extensive consultation with practitioners, arbitrators, law consultants, Government etc.

Table 2: Cursory Glance of TDRC via-a-viz some best practices is as below:

Issue	TDRC – Pakistan	SIAC/SMC Singapore/DIAC-Dubai	– Lesson
Institutional Identity	Statutory trade-dispute body with multiple functions	Specialized arbitration with independent tribunal	Separate administration from adjudication
Decision maker	Commission can make determinations; arbitration also provided	Independent arbitral tribunal/mediation centre	Use independent tribunal for arbitration
Arbitration law	Act links to Arbitration Act 1940	Modern institutional rules of New York Convention and UNCITRAL	Modernise Pakistan’s arbitration/mediation framework

ADR	Negotiation/conciliation/arbitration/determination	Arbitration mediation with ADR options	Integrate ADR but make legal consequences clear
International positioning	Trade-dispute focused	Global arbitration/mediation centre	Broaden international commercial appeal
Technology	Updated Rules provide procedural architecture	Sophisticated electronic administration	Make digital case management core infrastructure
Enforcement	Strong domestic enforcement with civil court powers, no channel for foreign enforcement of final determination, reliance on 1940 Arbitration Act does not allow narrow judicial review	Court-supported awards, with very narrow grounds for appeal	Upgrade arbitration act, adopt UNCITRAL rules, limit judicial inference in awards and in final determinations

Way Forward

In this chapter we will very precisely delve on proposed recommendations viz-a-viz best practices. We have identified gaps and have proposed recommendation against each gap, given in table 3.

Table 3: Gaps and Recommendations for Current Framework

#	Gap in Current Framework	Benchmark	Recommended Amendment
1	Arbitration anchored to Arbitration Act, 1940 (Sec. 47) while Rules (SRO-552, Rule 21) prescribe UNCITRAL Rules — creates ambiguity about which procedure parties are deemed to have agreed to (relevant to NYC Article V(1)(d)). Current gap between the Act and rules will result in challenge of arbitral awards.	<u>Singapore -Model Law-</u> based Singapore International Arbitration Act (IAA), 1994; it enacted implemented UNCITRAL Model law on international Commercial Arbitration. It gave international arbitration a clear and modern legislative procedural framework. It provides minimal curial intervention. Singapore courts are directed to interfere with arbitral awards only on narrow	Support passage of the Draft Arbitration Act, 2024 (which is based on UNCITRAL Model Law), then amend Sec. 23(1)(b)(iv) and Sec. 47 so the Act and Rules consistently specify a single procedural framework instead of Arbitration Act, 1940.

	model law grounds, similar to NYC Article V grounds. <u>UAE Federal Arbitration Law 2018</u> ; it applies to all arbitrations seated in the UAE excluding DIFC and ADGM free zones. It is a standalone, 61 article statute based on UNCITRAL model law. It replaced 16 scattered articles in UAE Civil Procedures.	
2	"Final determination under Sec 41 of TDRC Act , never declared final and binding; unclear legal character versus an arbitral award.	UNCITRAL Model Law Art. 35–36: awards are binding with narrow, enumerated refusal grounds only. Insert a new sub-section in Sec. 35 declaring final determinations "final and binding on the parties," subject only to the Sec. 41 appeal. (We have to limit grounds for appeal).
3	Appeal scope to Commercial Bench (Sec. 41) is undefined — could permit full merits re litigation.	Model Law-style (UNCITRAL) narrow set-aside grounds (jurisdiction, serious procedural irregularity, public policy). Amend Sec. 41 to limit appellate review to jurisdictional error, serious procedural irregularity, or public policy — not full merits review.
4	No statutory qualification criteria for arbitrators/conciliators (Sec. 45, 48), unlike the rigorous Sec. 9 standard for Commissioners.	SIAC/DIAC maintain published expertise, independence criteria with minimum qualification in Chartered Institute of Arbitrators (CIArb) or equivalent, with experience in five or more cases and competition of at least two arbitral awards. Amend Sec. 45 and 48 to require defined minimum qualifications and disclosed independence for entry onto the approved panel.
5	Section 62 immunity is very broad ("conscious and deliberate wrongdoing" only) with no grievance mechanism.	Comparable institutions pair immunity with an internal complaints or ombudsman mechanism. Add a section establishing a complaints/review mechanism for service failures short of full immunity waiver.

6	No legislated pathway toward institutional independence from the Ministry of Commerce.	SIAC and LCIA both began as government-linked bodies and transitioned to independent governance.	Add a section setting a phased transition timeline (5–7 years) to an autonomous board with chamber/business-community representation.
7	No panel diversity or international-arbitrator inclusion requirement.	DIFC imported foreign judges from inception; SIAC panels are internationally diverse by design.	Amend Sec. 48 to require a minimum proportion of internationally qualified/foreign arbitrators on the approved register.
8	\$100 million commercial-bench referral threshold (Rule 15) is disconnected from Pakistan's actual trade-dispute value distribution.	Thresholds elsewhere are calibrated to real caseload data.	Direct TDRC/Ministry to recalibrate the threshold after 12–24 months of case data via rule amendment under Sec. 58.
9	No public case-data/transparency obligation in the Act itself.	SIAC and most credible institutions publish annual statistics.	Extend Sec. 17 to require quarterly publication of caseload, resolution time, and enforcement outcome statistics.
10	Section 51(d) contemplates bilateral agreements to enforce "agreement, award, judgment, order, direction or adjudication" abroad — but this is only necessary for TDRC's non-arbitral outputs (final determinations, conciliated settlements, Cross-border enforcement depends on untested bilateral agreements (Sec. 51(d)) with no confirmed counterpart states. administrative orders), since a properly constituted arbitral award is already enforceable via the New York Convention/REA 2011	DIFC's conduit-jurisdiction protocol with onshore Dubai courts addresses an analogous gap for non-Convention instruments.	Clarify that bilateral agreements under Sec. 51(d) are pursued specifically for final determinations and other non-arbitral outputs, not as a substitute for, or supplement to, NYC/REA 2011 enforcement of arbitral awards, for which no bilateral agreement is needed.

without any bilateral agreement

Terms mediation and conciliation are not separately defined. Mediation procedure not defined in the ACT, nor adopts UNCITRAL rules on mediation. There is no standalone mediation Act in Pakistan. Recently Pakistan has ratifies 'Singapore Convention on Mediation, 2019' it is parallel to NYC for foreign enforcement (on May, 2025)

Singapore Convention, 2019 on mediation like NYC needs domestic effect in form of an Act, which still has not been proposed anywhere. Similarly, TDRC rules have no mention of mediation and related rules of how to conduct it.

Draft mediation Act on UNCITRAL mediation law, give legal effect to Singapore Mediation Convention

Structural Recommendation: Spin Off a Dedicated Arbitration Centre

A recurring theme across the amendments above is that TDRC bundles several distinct functions — free negotiation, non-consensual determination, conciliation, and arbitration — inside a single institutional identity that also carries the Ministry of Commerce's branding, a broad immunity clause, and no arbitrator-quality standard. A stronger alternative (more creditable and more aligned with Singapore/Dubai mode) can be one in which non-consensual adjudication is separate from arbitration/mediation.

Conclusion

Establishment of TDRC in Pakistan is an important step towards effective resolution of trade dispute. Previous trade dispute resolution regimes in Pakistan were totally ineffective. The organization is backed by the Act of the Parliament and has domestic enforcement powers. As the organization starts working it is assumed that it will evolve. However, there are certain legal and institutional ambiguities that may affect its effectiveness in international commercial disputes. The most important is TDRC Act's reference to the Arbitration Act, 1940 and the Trade Dispute Resolution Rules, 2026, refer to the UNCITRAL. The central concern is whether the governing legislation and agreed procedure provide sufficient clarity and predictability for the arbitration and its subsequent enforcement. In view of the lack of modern enactment in terms of arbitration act and mediation act, it appears as if the cart has been made before the purchase of horses to drive it.

The paper also finds that the TDRC has a heavy mandate and it combines negotiation, conciliation, arbitration, and final determination. It is a distinctive model, but one that raises questions about the separation of administrative and adjudicative functions and the independence of decision makers.

The successful institutions like those of Singapore and the UAE provides clear institutional separation of arbitration and mediation with no intervention in the process, clear and transparent criteria of the appointment of arbitrators/mediators backed by most advanced and modern arbitration legislation with limited judicial intervention. Accordingly, the priority should be to align the Act and Rules around a single coherent arbitration regime and complete the modernization of Pakistan's domestic arbitration law (proposed arbitration Act 2024).

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