

Section 4: International Law

Suhailah Akbari: Chabahar versus APTTA – Which Transit Trade Agreement Offers Broader Legal Transit Trade Opportunities for Afghanistan

In recent years, as part of its foreign transit trade regime, Afghanistan has concluded transit trade agreements with several neighboring countries. These include the 2010 Afghanistan Pakistan Transit Trade Agreement (APTTA) and the 2016 Chabahar Transit Trade Agreement between Afghanistan, India and Iran. Under the APTTA, Afghanistan is granted free transit for its exports to India and other South Asian markets through Pakistani sea-ports and land ports. In exchange, Pakistan is allowed to use Afghanistan's land ports for its exports to Central Asian countries. Since its conclusion, the contracting parties have alleged frequent violations of the Agreement. The Chabahar Agreement opens up the respective markets for Afghan and Indian products through the Iranian Chabahar sea-port. The Agreement has been presented as an alternative to the APTTA. While the benefits of the agreements are often examined from an economic prospective, the legal implications of these agreements has not been assessed. This article examines whether Chabahar is a viable alternative to APTTA for Afghanistan. It focuses on the provisions on transit route and Customs facilitations, institutional arrangement, dispute settlement system, and on transparency of each of these agreements. Given the significance of these provisions in facilitating transit trade, the paper argues that it is for the benefit of Afghanistan to keep both agreements instead of replacing one with the other. Each agreement offers different legal and economic advantages for Afghanistan. Similar benefits goes to Pakistan as under APTTA Afghanistan grants Pakistan free transit to Central Asian markets.