

APTTA versus Chabahar: Which Transit Trade Agreement Offers Afghanistan Broader Legal Benefits

Dr. Suhailah Akbari

Takhar University

ARTICLE DETAILS

Article History

Published Online: 15 July 2020

Keywords

access to the sea, trade, freedom of transit, customs, duties and charges.

*Corresponding Author

Email: [sillaakbari\[at\]gmail.com](mailto:sillaakbari[at]gmail.com)

ABSTRACT

To obtain free transit and free access to and from the sea, the landlocked LDC Afghanistan has concluded transit agreements with its two coastal neighboring States. These agreements are the 2010 Afghanistan Pakistan Transit Trade Agreement (APTTA) with Pakistan and the 2016 Chabahar Agreement with Iran and India. Since the conclusion of APTTA, the contracting parties have alleged frequent violations of the Agreement, which has been one main reason persuading Afghanistan to conclude the Chabahar Agreement with Iran and India.

While the benefits of the two agreements are often examined from an economic perspective, the legal implications of these agreements have not been assessed. This paper provides a comparative legal analysis of both agreements to assess which of them offers broader legal transit trade benefits for Afghanistan and whether the Chabahar Agreement is a viable alternative to APTTA. The paper generally concludes that the Chabahar Agreement can reduce Afghanistan's dependence on Pakistan in terms of access to the sea, but it does not serve a viable alternative to APTTA. The Chabahar Agreement could serve as a separate transit agreement providing Afghanistan with more options to access to the sea. Both APTTA and the Chabahar Agreement have their own particulars and none of them should replace the other.

Introduction

Pakistan in the south and east and Iran in the west are the two direct coastal neighboring States with which Afghanistan has concluded APTTA and the Chabahar Agreement respectively. A legal analysis of both agreements are important in terms of Afghanistan's free access to the sea. APTTA is particularly important due to, on one hand, the significant role of Pakistan as a primary trading partner to Afghanistan and, on the other hand, the implementation challenges of the Agreement that have raised continuous complaints. Similarly, the Chabahar Agreement is equally important as Iran is also a primary trading partner to Afghanistan and, most importantly, the Agreement has been presented as an alternative to APTTA.

APTTA grants Afghan exports free transit to India and other South Asian markets through Pakistani sea and land ports. In exchange, it grants Pakistani exports free transit to Central Asian countries through Afghanistan's land ports and airports. Since the conclusion of APTTA, the contracting parties have alleged frequent violations of the Agreement, which has been one main reason persuading Afghanistan to conclude the Chabahar Agreement with Iran and India in 2016 to offset its dependence on Pakistan to access to India and other South Asian countries via the sea. The Chabahar Agreement opens up the respective markets for Afghan and Indian products through the Iranian seaport of Chabahar.

This paper provides a comparative legal analysis of both agreements to assess which of them offers broader legal transit trade opportunities for Afghanistan and whether the Chabahar Agreement is a viable alternative to APTTA.

The paper has three main sections. Section 1 offers an analysis of APTTA and concludes that while APTTA embraces many moderate transit provisions that grant transit facilitation for

the two countries, the Agreement has substantial gaps and implementation challenges to be addressed. Section 2 offers a comparative analysis of the Chabahar Agreement. It concludes that the Agreement can reduce Afghanistan's dependence on Pakistan in terms of access to the sea, but it does not serve a viable alternative to APTTA. The Chabahar Agreement should serve as a separate transit agreement providing Afghanistan with more options to access to the sea. Both APTTA and the Chabahar Agreement have their own particulars and none of them should replace the other. Section 3 concludes the paper.

1. Afghanistan-Pakistan Transit Trade Agreement (APTTA)

Sharing 2,430km¹ borderline, Afghanistan and Pakistan are the largest trading partners for each other in the region. Since post-Taliban, bilateral trade between the two countries has significantly increased. Followed by India, both countries are the first largest exports markets to one another.² Afghan exports to

¹ UN, Office on Drugs and Crime, *Country Profile: Pakistan*, <https://www.unodc.org/pakistan/en/country-profile.html>; see also Institute for the Study of War, *Afghanistan and Pakistan*, <http://www.understandingwar.org/pakistan-and-afghanistan>.

² There are discrepancies in exports market position of both countries to one another. Some reports rank Pakistan as the first largest exports market for Afghan exports and Afghanistan as the third largest exports market for Pakistani exports. Some other reports and literature rank Pakistan as the first largest exports market for Afghan exports and Afghanistan as the second largest exports market for Pakistani products. See, e.g., PAJCCI, *Pak Afghan Trade*, 2 (2018), http://www.pajcci.com/PressRelease/PressReleaseImage_107.pdf; see also Government of Pakistan, Development Authority of Pakistan, *Country Report on Afghanistan: Executive Summary* (2018), <https://www.tdap.gov.pk/word/AFGHANISTAN.pdf> (Prepared by MohsanMazhar); KalsoomHanif, *Pakistan Afghanistan's Economic Relations after 9/11*, 31 J. PUNJAB. U. HIST.SOC'Y, 94-97 (June 2018).

Pakistan mainly include raw cotton, carpets, fresh fruits including grapes and dry fruits including nuts, and Pakistan's exports to Afghanistan mainly include wheat, chemical products, mineral products, metals, machinery, plastics and rubbers, live animals, non-alcoholic drinks, fruits, dairy products, vegetables and meat.³

For both countries, the exports to and imports from one another account for more than 30 percent of their total world trade.⁴ The volume of bilateral trade exchanged between the two countries increased from 25 million USD during the Taliban regime to half a billion USD in 2004 and further increased to more than 1.5 billion USD during 2005-2010. Between 2011 and 2014, trade between the two countries reached approximately two billion USD with more than two-third of it belonging to Pakistani exports to Afghanistan and less than one-third belonging to Afghan exports to Pakistan.⁵ Due to political and security tensions, and implementation challenges of APTTA, trade between the two countries has decreased to less than 1.5 billion USD for the past couple of years.⁶ In contrast, Afghan trade with other regional potential trade markets has grown – mainly with Iran and India. In recent years, while Pakistan has remained the first exports market for Afghanistan, Iran has replaced Pakistan as Afghanistan's first imports partner and maritime transit route.⁷

Historically, Afghanistan has relied on Pakistan for access to the sea for its exports to India and South Asia. For this purpose, the two countries concluded the first Afghanistan-Pakistan transit trade agreement (ATTA) in March 1965.⁸ ATTA granted Afghan exports free access to the Indian Ocean through Pakistani maritime port of Karachi.⁹ To reach port of Karachi, Afghan exports were allowed to transit only via the land routes of Peshawar and Chaman in Pakistan.¹⁰ The Agreement

did not grant Afghan exports a transit through Gwadar seaport, which is the shortest maritime transit route to Afghan exports. The Agreement did also not grant Afghan exports a transit via Wagha land port, which is the shortest land transit route to Afghan exports to India. Similarly, the Agreement did not allow imports from India to Afghanistan through these ports. In exchange, the Agreement granted free transit to Pakistani exports through specified land ports of Afghanistan to reach Central Asian markets.¹¹ Several reports by the World Bank (WB) indicate that Pakistan often violated ATTA by banning and restricting transit of certain Afghan goods on the basis of a list of sensitive products.¹² Pakistan justified its ban and restriction necessary to avoid the smuggling of Afghan transit exports into Pakistani markets and damaging its domestic trade.¹³

Although ATTA was legally in force, its implementation was stalled for decades until it was replaced by the new APTTA in 2010. With the growth of bilateral trade between the two countries and given the importance of access to Central Asian markets for Pakistan and access to Indian and other South Asian markets for Afghanistan,¹⁴ Afghanistan and Pakistan signed APTTA in 2010.¹⁵ The Agreement entered into force in June 2011. APTTA has 52 Articles and two annexes. Annex 1 provides for a list of transit routes in both countries and Annex 2 includes four binding protocols that provide for technical and administrative mechanism and implementation procedures for APTTA provisions.

As mentioned earlier, since APTTA is concluded, both countries have alleged frequent violations of the Agreement and the implementation of the Agreement has been challenging. The implementation challenges are several. One challenge derives from the substance of the Agreement. The Agreement does not allow transit of imports from India to Afghanistan through Pakistan's territory making it hard for Afghanistan to import from India as one of its main imports partners. Similarly, the Agreement sets out some rigorous provisions that make it difficult for the contracting parties to implement them. These provisions mainly include customs control mechanism and transit security means. The contracting parties, particularly Afghanistan, do not have the necessary facilities and tools to fulfill these mechanisms and means, which challenge Afghanistan in implementation of those provisions. Moreover, adoption of quantitative restrictions (QRs) on transit goods by contracting parties, allegedly Pakistan, under list of sensitive goods and adoption of frequent border closure measures are the two other main challenges posed to effective implementation of the Agreement. Other APTTA implementation challenges include lack of transparency in the adoption and application of cross-border measures, exchange of information, poor administrative cooperation, and corruption in customs. This

³See PAJCCI, *Pak Afghan Trade*, *supra* note 2, at 1. According to this data by PAJCCI, Pakistani chemical export products are mainly soaps and acids. Mineral products are refined petroleum and cement. Machines are mainly refrigerators, washing machines and pumps. Foods also include sugar and chocolates.

⁴See, e.g., Mazhar, *supra* note 2, at 4; World Bank [WB], *Analysis of Afghanistan Pakistan Transit Trade Agreement* (May 2014); The Pakistan Business Council, *Afghanistan's Transit Trade Patterns Pre and Post APTTA* (June 2015), <https://www.pbc.org.pk/wp-content/uploads/AfghanistansTransitTradePatternsPrePostAPTTA.pdf>; see also the WB <https://wits.worldbank.org/CountryProfile/en/Country/AFG/Year/2016/Summary>.

⁵See Government of Pakistan, FOREIGN OFFICE YEARBOOK 2002–03, 11–13 (Foreign Office of Pakistan, 2003); Government of Pakistan, FOREIGN OFFICE YEARBOOK 2005–06, 10–14 (Foreign Office of Pakistan, 2006); Pakistan Bureau of Statistics, www.pbs.gov.pk/sites/default/files/external_trade/8_digit_level/exp/5_exp_2008-09_to_2012-2013.pdf; PAJCCI, *Draft Annual Report 2014*, 28 (2014); see also Christine Fair, *Pakistan's Relations with Central Asia: Is Past Prologue?* 31 J. STRATIGY STUD, 216 (April 2008).

⁶See Mazhar, *supra* note 2, at Executive Summary.

⁷Again, discrepancies exist in exports market positions of both the countries. According to Afghanistan National Trade Policy 2018–2023, 60 percent of Afghan products are exported to Pakistan and India. Ministry of Industry and Commerce [MoIC], Afghanistan National Trade Policy 2018–2023, 52 (2018); see also Mazhar, *supra* note 2, at Executive Summary.

⁸See generally Jaridai, *Rasmi Jumhuri'Ilsla'mai Afghanistan* [The Official Gazette of the Islamic Republic of Afghanistan], *Mo'afiqatna'mi Tejarati Transit Bain Jumhuri'Ilsla'mai Afghanistan wa Jumhuri'Ilsla'mai Pakistan* [Afghanistan Pakistan Transit Trade Agreement], 11 Hoot 1343 [Mar. 2, 1965] 57 [hereinafter ATTA].

⁹ATTA, prmb; ATTA annex, sec I, para (1) (b).

¹⁰*Id.*

¹¹*Id.*

¹²See, e.g., WB, *Analysis of Afghanistan Pakistan Transit Trade Agreement*, *supra* note 4, at 3.

¹³*Id.*, see also SAYEED WAQAR HUSSAIN, THE IMPACT OF AFGHAN TRANSIT TRADE ON NWFP'S ECONOMY 1–8 (Peshawar. Pan-Graphics Ltd., 2008); Rizvi, Shamim Ahmed, *Pak-Afghan Trade*, Pakistan Economist Weekly (Sept. 9–15, 2002); Razia Sultana, *Pakistan – Afghan Economic Relations: Issues and Prospects*, 64 PAK. HORIZAON, 21, 28–29 (January 2011).

¹⁴See, e.g., COUNTRY PROFILE: PAKISTAN, AFGHANISTAN, 1998–99, 5–48 (London. The Economist Intelligence Unit Ltd., 1999).

¹⁵The Official Gazette of the Islamic Republic of Afghanistan, *Mo'afiqatna'mi Tejarati Transit Bain Jumhuri'Ilsla'mai Afghanistan wa Jumhuri'Ilsla'mai Pakistan* [Afghanistan Pakistan Transit Trade Agreement], 10 Aqrab 1390 [Nov. 1, 2011], 1063, at prmb & art 54.

section does not get into the details of all of these challenges and rather focus on assessment of APTTA substantive provisions.

1.1 Freedom of transit and exceptions

Although APTTA introduces a most favored nation (MFN) and national treatment (NT) based free bilateral transit regime, due to banning transit of Afghan imports from India through Pakistan, the established regime is not fully free and non-discriminatory.

Article 3 APTTA defines freedom of transit as follows:

1. There shall be freedom of transit through the territory of each contracting party, via the pre-settled routes most convenient for international transit, for traffic in transit to or from the territory of the other contracting party. No distinction shall be made which is based on flag of the vessel, the place of origin, departure, entry, exit or destination, or any circumstances relating to the ownership of goods, vessels or other means of transport;
2. If any contracting party is of the opinion that some goods or class of goods being allowed in transit are smuggled back in its territory and are hurting the economy, industry or import revenue, it may file a complaint with the Authority, stating its grievances along with facts and figures and damages being caused to the contracting party. On receipt of the complaint, the Authority shall convene a meeting within three months of the filing of the complaint and may agree on taking any appropriate measures to address the problem.

Article 3 provides few important provisions. One important provision, as provided by paragraph 1, is choice of transit routes as being 'most convenient for international transit' – a criterion recognized by most multilateral agreements including Article V of the General Agreement on Tariffs and Trade (GATT) of the World Trade Organization (WTO) for international transit routes. Another important provision, as provided by paragraph 1, is the MFN principle that prohibits all kinds of discriminations during a transit journey.¹⁶ Similarly, another important provision, as provided by paragraph 2, is the issue of 'smuggling trade'. APTTA is straightforward about what should be done when smuggling trade is suspected during a transit journey, which is to resolve the issue through discussion and cooperation within the framework of APTTA authorized institutions and take appropriate measures accordingly. This provision is important for the fact that, for a long time, smuggling trade has been a trade and transit challenge to both countries. However, the two countries have barely resolved the issue of smuggling trade in transit through official means and rather have sought unilateral QR measures.

To ensure freedom of transit, APTTA exempts transit goods from customs duties and charges, except charges applied to roads and to services rendered. The Agreement also prohibits the adoption and application of unnecessary restrictive measures.¹⁷ However, APTTA contains 'best endeavor' provisions on general and security exceptions that allow the

contracting parties to derogate from their obligations when their fulfilment harm societal values and endanger the territorial security of the contracting parties. Article 53 APTTA provides:

The contracting parties agree to ensure that no measure taken under the Agreement could risk harming or destroying (i) public morals; (ii) human, animal and plant life; (iii) national treasures; (iv) security of its own territory; and (v) any other interests as mutually agreed upon.

Similarly, Article 9 Protocol 1 of APTTA provides:

The contracting parties may restrict or prohibit traffic in transit on certain routes for the duration of repair work or for the duration of a danger to public safety, including traffic safety or public emergency. Before traffic in transit is restricted or prohibited for reasons other than emergencies, the contracting party imposing restrictions or prohibition shall notify the competent authorities of the other contracting party well in advance of taking actions.

APTTA provisions on general and security exceptions under Article 53 and Article 9 Protocol 1 reflect some ambiguities. One main ambiguity comes from the lack of definition and scope of certain important terms in those articles. APTTA does not define what constitutes the 'security of its own territory' and whether it includes any emergencies as provided in Article 9 Protocol 1. Similarly, while Article 9 Protocol 1 provides for traffic safety and public emergency as examples of public safety, it does not define what constitutes a public safety and whether a public emergency as one type of public safety would fall under territorial security as provided under Article 53 APTTA. Another ambiguity arises in the extent of the exceptions listed under Article 53 APTTA. Article 53 does not provide for any conditions such as whether and to what extent it would be necessary to derogate from APTTA obligations when their fulfilment could risk the listed exceptions including the exception on the territorial security of the contracting parties. Unlike Article 53, Article 9 Protocol 1 contains two conditions for the application of a transit restriction or prohibition, which are (i) the restriction or prohibition to be applied during a repair work or a danger to public safety and (ii) advance notification of the restriction or prohibition unless there is an emergency. If one considers that public safety is one of the issues of territorial security within the meaning of Article 53 APTTA, the conditions listed for a restrictive measure protecting public safety under Article 9 Protocol 1 raise the question as to whether application of a restrictive measure for territorial security under Article 53 should also be limited to the duration of the prevailing risk or subject to advance notification to the other contracting party.

1.2 Pre-settled transit routes

APTTA determines a number of seaports, airports and land ports in Pakistan and a number of land ports and airports in Afghanistan as applicable transit routes and obliges the contracting parties to ensure the safety and maintenance of the routes and undertake repair measures when necessary.¹⁸ Seaports of Karache, Qasim and Gawadar and the land port of Wagah are the main transit ports in Pakistan that channel Afghan exports to India and other South Asian markets.¹⁹ In exchange, several land ports in different parts of Afghanistan channel Pakistani exports to Central Asia, Iran and East Asia.

¹⁶*Id.* art 33. Article 33 provides also national treatment to traffic in transit of another contracting party with respect to all rules, laws, measures, charges, fees and any other financial obligations.

¹⁷*Id.* arts 30 & 32

¹⁸*Id.* art 4.

¹⁹*Id.* arts 7 & 8. Annex 1 of the Agreement provides a list of all pre-settled entry-exit ports.

For instance, Torghundi port in west and Aqina port in north of Afghanistan channel transit of Pakistani exports to Turkmenistan, Ai Khanum and Sherkhan ports in the northeast channel transit to Tajikistan, Hairrantan port in the north channels transit to Uzbekistan, and Zaranj and Islam Qalah ports in the west channel transit of Pakistani exports to Iran.²⁰

APTTA allows only transit of Afghan exports to India through Pakistan and bans transit of imports from India to Afghanistan through Pakistan.²¹ Afghan transit vehicles must either return empty from Pakistani ports or carry Pakistani exports on their way to Afghanistan.²² Afghan transit vehicles are also not allowed to carry Pakistani goods from Pakistani ports in order to discharge them back in Pakistan.²³ Due to increasing costs and length of trading, the transit ban on Indian exports through Pakistan and empty return of transit vehicles have been challenging for Afghan traders making them seek alternative routes, i.e., via Iran, to import from India. Although with the opening of the Iranian seaport of Chabahar under the Chabahar Agreement, the challenge to import from India has been, to some extent, reduced, the costs of imports through this route are relatively higher due to insufficient infrastructural and other port facilities.

1.3 Simplification and harmonization of customs procedures and formalities

To facilitate free transit, APTTA requires that customs procedures and transit formalities should be harmonized and simplified and their necessity should be reviewed periodically.²⁴ For instance, as means of harmonization, APTTA provides for mutual recognition of documents and technical requirement certificates of road transit vehicles and obliges the contracting parties to carry out periodic examination of safety standards and technical conditions of road transit vehicles registered in their territory.²⁵ It also obliges the contracting parties to recognize the certificate of those periodic examinations from each other. APTTA provides similar provisions on mutual recognition of driving license and vehicle registration documents such as vehicle plates and obliges the contracting parties to recognize those documents from each other. Similarly, it provides for harmonization of customs procedures through mutual administrative assistance such as cooperating in customs control procedures and taking joint customs control actions at cross-border checkpoints and exchange of relevant information between customs offices of the contracting parties.²⁶ As such, APTTA obliges the contracting parties to recognize customs control certificates from each other and, except for seal and stamp check, refrain from physical inspection of goods inside transit vehicles and containers that comply with all technical requirements, and conformity standards. Under exceptional cases such as when customs offices suspect inconformity with customs requirements APTTA allows the contracting parties to run physical inspections of transit vehicles and containers or for a

risk management purpose examine up to five percent of transit containers.²⁷

APTTA has a special provision on customs control of vehicles and containers that carry animals, perishable and urgently needed goods and obliges the contracting parties to facilitate and accelerate movement of those vehicles and containers by granting priority in customs clearance and avoiding SPS controls of them.²⁸

1.4 Recognition of relevant international rules and standards

APTTA recognizes rules and procedures of other international conventions and multilateral agreements and provides that its provisions do not affect the rights and obligations of the contracting parties under those international conventions and multilateral agreements.²⁹ APTTA particularly recognizes Article V GATT for matters related to freedom of transit, rules and procedures of the World Health Organization (WHO), Food and Agriculture Organization (FAO), and IOE for cross-border SPS control of goods, the UN Customs Layout Key as customs documentation guidelines for harmonizing customs documents and other formalities, and rules and procedures of the 1999 Revised Kyoto Convention for exceptional physical inspection of vehicles and containers.³⁰ Although APTTA remains silent on the TIR procedures, Afghanistan and Pakistan currently apply its procedures to their customs and transit. The reason for the absence of recognition of the TIR procedures could be that Pakistan was not a member of the TIR Convention at the time when APTTA was concluded.

1.5 Transport conditions and permits

APTTA sets out a number of rigorous technical requirements for road transit vehicles and some general and specific requirements for transport operators. The rigorous technical requirements for road transit vehicles include carrying bonded carrier license and tracking devices. A tracking device is an electronic device attached to vehicles and controlled by customs administrations and enables customs administrations to track movement and location of goods.³¹ Similarly, bonded carrier license means that a reputable carriage company has insured a transport vehicle (has posted a bond) and undertaken all financial liabilities for the vehicle.³²

As for transport operators, in order to undertake international transport operations of goods in transit, they should be licensed in the country where they have registered their transport operation business and obtain a temporary admission document from a transit contracting party.³³ A temporary admission document is an entry and exit or passage permit issued by transit contracting party, at a border entry point, for temporary admission of registered vehicles of the other contracting party.³⁴ Accordingly, temporary admission of vehicles are customs procedures that allow a registered vehicle of one contracting party to enter temporarily into the territory of

²⁰ *Id.* annex 1, art 3.

²¹ *Id.* footnote 2.

²² APTTA, art 11(4).

²³ MoC, *AsnadwaProcejarhaezaroridarChaokat APTTA* [Required Documents and Procedures under APTTA], <http://moci.gov.af/fa/page/8603/8604/8605>.

²⁴ APTTA, art 28.

²⁵ *Id.* arts 16 & 18; Protocol 1, art 4.

²⁶ APTTA Protocol 3, art 20.

²⁷ *Id.* art 10; APTTA, art 21(4).

²⁸ APTTA Protocol 3, arts 21, 23, 25.

²⁹ APTTA, arts 27, 28, 52.

³⁰ *Id.* arts 27 & 28.

³¹ *Id.* art 13.

³² *Id.*

³³ *Id.* arts 10 & 11.

³⁴ *Id.* art 2; Protocol 1, art 3.

the other contracting party without paying import taxes.³⁵ The temporary admission document is valid for 30 days, after its expiry, the transit vehicle should exit the territory of the contracting party.³⁶ Border agencies of the contracting parties issue the document free of charge but only after they inspect the vehicle and check all the required documents.³⁷ APTTA allows these authorities to suspend or revoke the issued temporary transit document when a transport operator violates a law or commits an illegal action while in transit through the territory of a transit contracting party.³⁸

1.6 Visa facilities

APTTA provides multiple entry transit visa to drivers and persons involved in international transit activities for a period of six months with each stay no longer than 15 days.³⁹ However, under emergencies, the Agreement provides for extension of the transit visa.⁴⁰

Taking into account the poor physical infrastructural road facilities across Afghanistan and Pakistan which affect the time of movement of goods, the APTTA transit visa period per entry is not adequate. Not to mention that customs inspection and clearance of goods in both countries, despite many reforms carried out, are still lengthy and cumbersome. Therefore, often, the transit visa period per each entry expires before exports can exit the territories of the contracting parties. Although, APTTA provides for an extension of transit visa, it limits it to emergencies.

1.7 Transit security and insurance

APTTA provides a relatively strict transit security regime for transit goods and transit vehicles. APTTA defines a transit security for transit goods as “[c]ashable financial guarantee acceptable to Customs, submitted by the traders or through their authorized brokers, on transit goods, for an amount equivalent to the import levies of Contracting Parties.”⁴¹ The definition has four main particulars: 1) the transit security is a financial guarantee that is cashable in both countries, 2) traders or their authorized brokers submit the transit security means, 3) the transit security should meet the satisfaction of customs for acceptance, and 4) the amount of the transit security should be equivalent to the import customs duties value of transit goods. The two contracting parties have agreed on a 110 percent amount of imports customs duties value of transit goods as transit security.

Similarly, for a transit security for transit vehicles APTTA provides that “the transporter shall provide a bank guarantee or revolving bank guarantee or carnet-de-passage (when operational) as a pre-requisite for Temporary Admission Document, on his convenience, acceptable to the Host

Country.”⁴² This definition has also four particulars: 1) the transit security for vehicles is a bank guarantee or carnet-de-passage, 2) transporters should present it to customs, 3) the transit security should meet the satisfaction of customs for acceptance, and 4) the transit security is a condition for temporary admission of vehicles or in other words, for temporary admission of transit vehicles, the APTTA requires transporters to submit a bank guarantee or carnet de passage. The guaranteeing banks or institutions who issue transit security, undertake customs transit liabilities for transit vehicles and containers. APTTA requires a bank guarantee not only to secure the payment of customs taxes and charges but also to ensure the compensation of charges and fines for irregularities and legal violations such as violation of customs laws and regulations of the transit contracting party, or failing to exit the transit territory within the period specified in the temporary admission document or transit visa.⁴³ Vehicle operators should carry the proof of transit security in a Customs document called Transit and Inland Customs Clearance Document.⁴⁴ This document guarantees the payment of all customs duties, charges, and fines and contains information about the place and period of departure and destination of transit vehicles. The document is valid for one transit journey and each transit vehicle or transport unit should carry one document.⁴⁵

In addition to transit security, APTTA requires that transit vehicles should be insured. The insurance should also include compulsory insurance for third party vehicle liability during the transit journey.⁴⁶

Currently, Pakistan does not allow Afghan vehicles without presenting these guarantees and insurances. Both Afghan officials and traders report challenges in their ability to provide these guarantees and insurances. The challenge comes initially due to reluctance of banks both in Afghanistan and Pakistan to provide Afghan vehicles with a guarantee. In most cases, uninsured vehicles return to Afghanistan after long inspections at the borders. However, in 2016, for a temporary solution, the Afghan Ministry of Transport and Civil Aviation issued a guarantee letter for Afghan vehicles and requested the Government of Pakistan to recognize the issued guarantee letter for transit of Afghan transit vehicles.

APTTA provisions on transit security are strict and ambiguous. They are strict because they require separate transit security for transit goods and vehicles, which traders in both countries, particularly Afghanistan often are not able to provide. They are also ambiguous with regard to subjecting both guaranteeing banks and traders to liability for payment of customs taxes and other charges. Paragraph 1 of Article 23 Protocol 3 of APTTA provides that “the guaranteeing institution shall be separately or jointly with the person for whom the sums are directly due, liable to pay the imports and exports duties, taxes, fines and interests...” This provision does not provide for the procedure and method of carrying out the joint liability. For instance, it is not clear whether customs authorities would directly refer to traders or their authorized brokers during transit journey for liability or to guaranteeing banks.

APTTA transit security is one of the areas that should be

³⁵ APTTA Protocol 2, art 4.

³⁶ *Id.* art 12.

³⁷ APTTA Protocol 1, arts 23, 24, 27.

³⁸ *Id.* art 30. APTTA provides some additional criteria for road transport operators. A road transport operator must represent sufficient financial means to guarantee the start and management of the road transport operation. Similarly, he/she should not be convicted for serious breach of laws, barred from exercising road carriage profession because of violation of road carriage regulations, or declared bankrupt. In addition, he/she must prove professional competency in the field of road transport carriage through proof of general education, passing specific exams, or practical experience. Protocol 1, arts 17, 18, 19.

³⁹ *Id.* art 20.

⁴⁰ *Id.* art 9.

⁴¹ APTTA Protocol 3, art 3.

⁴² APTTA Protocol 2, art 14.

⁴³ *Id.* art 15.

⁴⁴ APTTA Protocol 3, art 13.

⁴⁵ APTTA Protocol 2, arts 2 & 14(2).

⁴⁶ APTTA, art 19.

reformed if the contracting parties renegotiate the Agreement in future. The contracting parties could use simplified and harmonized systems of transit guarantee such as the TIR Carnet for both transit goods and transit vehicles. Similarly, they could use unified regional insurance systems. For instance, as mentioned in previous sections, ECO is in the process of establishing an international insurance system for its member States and once operational, Afghanistan and Pakistan should seek to use ECO insurance system for APTTA insurance scheme.

1.8 Transparency

APTTA has some transparency provisions but their implementation has been challenged. Article 29 APTTA requires the contracting parties to publish their regulations, policies and advance rulings concerning their bilateral transit trade. It also requires them to notify each other in advance on adopting and applying any measures that affect implementation of APTTA provisions. APTTA particularly requires prior notification of measures concerning change in rules and procedure of transit visa⁴⁷ and protective actions.⁴⁸ However in practice, the contracting parties barely notify each other on the adoption of transit measures. As such, it remains uncertain because of a lack of notification that when one of the contracting parties adopt and apply a unilateral measure, i.e., close borders or adopt a new list of sensitive products.

As a means of transparency, APTTA also provides for exchange of customs information through the AUSYCUDA system between customs offices of the contracting parties and establishes enquiry offices at customs borders to provide customs and transit information to traders and other interested persons and bodies. In practice, however, due to poor knowledge of customs regulations and rules, the enquiry offices have not been successful in providing information to traders. Similarly, the AUSYCUDA system has not been efficiently operational as, on one hand, customs authorities in both countries are not well trained to use the system and, on the other hand, the regular operation of the system is affected by inadequate electricity power.

In addition, other factors such as poor customs cooperation, corruption at customs borders and the longstanding political tensions between the two countries have affected the implementation of APTTA transparency provisions. For instance, Afghan traders and drivers allege unexpected change in rules and measures at Pakistani borders.⁴⁹ They also allege that Pakistani goods enter Afghan markets without paying import taxes and Afghan customs, in exchange for bribe, issue transit documents and exempt them from import duties.⁵⁰ Border customs do not cooperate in exchange of information and the two countries rarely hold follow-up meetings on the implementation of the Agreement and addressing ongoing disputes and challenges.

⁴⁷ *Id.* art 20.

⁴⁸ Protocol 1, art 9.

⁴⁹ Despite attempts made, the author was not able to conduct interview with Pakistani officials for their opinion on this issue. Due to security threats, the author was also not able to conduct interview with Pakistani vehicledrivers who pass through Afghanistan.

⁵⁰ Tolo News, News, Jan. 19, 2019, <https://www.youtube.com/watch?v=-g-fnUakZ28> [From min 19:10 to min 21:57].

1.9 Institutional arrangements and implementation of APTTA

APTTA introduces the Afghanistan Pakistan Transit Trade Coordination Authority (APTTCA), Pakistan Afghanistan Joint Economic Commission (Afghan-Pak JEC) and the Secretariat as APTTA institutions. APTTCA is tasked to implement and oversee APTTA provisions and resolve disputes in the first place. It comprises officials from ministries of commerce and industries and representatives of private sectors of the contracting parties. A deputy minister from Afghanistan's MoIC and a deputy minister from Pakistan's MoIC co-chair APTTCA's meetings.⁵¹ APTTCA holds its ordinary meetings every six months and extraordinary meetings upon request by contracting parties and adopts its final decisions by consensus of votes.⁵²

Since its inception, APTTCA has not demonstrated appropriate capacity to implement and oversee APTTA provisions and resolve ongoing disputes. There are many factors affecting its capacity and decision-making including the decision-making mechanism. APTTCA's consensus based voting mechanism has stalled the authority's decision-making, as it has not always been able to receive a consensus of votes to take its final decisions.⁵³ Similarly, APTTCA does not have an implementation mechanism and a mutual policy to carry out its decisions and decisions often remain in papers.⁵⁴ For example, although at its fourth and fifth meetings, APTTCA decided not to require the use of bonded carrier and tracking devices for Afghan transit vehicles until the vehicles can afford them, Afghan trader allege that local customs in Pakistan still require Afghan transit vehicles to present bonded carrier license and charge them for lack of tracking devices.⁵⁵ Similarly, Afghanistan has been alleged to neglect carrying out some of its obligations under APTTCA. For example, Pakistan has claimed that despite Afghanistan having pledged to waive the road pass fee for Pakistani transit vehicles, still charges Pakistani vehicles 100 USD road pass fee.⁵⁶

Other factors include reluctance of the contracting parties to hold meetings and the poor representation of delegations in APTTCA's meetings. Since 2011, the Authority has held only six

⁵¹ APTTA, arts 34 & 35.

⁵² *Id.* at arts 36 & 37.

⁵³ For example, at the 1st meeting of the APTTCA, Afghanistan stated that Pakistan unilaterally interpreted the requirements for transit security means for transit goods and vehicles, which was not acceptable to Afghanistan. Although both the countries discussed the issue, they did not reach an agreement. See Afghanistan Pakistan Transit Trade Coordination Authority [APTTCA], MIN. 1stmtg, 3 (Islamabad. Feb. 11–12, 2011) [hereinafter Minutes of 1st Meeting].

⁵⁴ For example, although, at the 2nd meeting of the APTTCA, the delegations again discussed the transit security and reached an agreement, they did not implement their decision. At the 2nd meeting, Pakistan agreed that instead of a transit security equivalent to full customs duties, it would accept from Afghanistan a transit security equivalent to 25 percent of customs duties. For transit goods security, both the countries agreed to accept insurance guarantee for the import duty value of transit goods and traders could submit to customs offices an insurance guarantee issued by any reputable insurance company. APTTCA, MIN. 2ndmtg, 3 (Kabul. May. 31–June 01, 2011) [hereinafter Minutes of 2nd Meeting].

⁵⁵ See APTTCA, MIN. 4thmtg, 4 (Kabul. Oct 8– 9, 2013) [hereinafter Minutes of the 4th Meeting]; APTTCA, MIN. 5thmtg, 4 (Islamabad. Jan. 10, 2014) [hereinafter Minutes of the 5th Meeting]; see also Transit Cargos to Move through Registered Carriers Only, Feb. 7, 2017, Pakistan Customs news Portal, <https://customnews.pk/2017/02/07/transit-cargo-to-move-through-registered-carriers-only/>.

⁵⁶ See generally APTTCA, *Minutes of the 4th Meeting* and *Minutes of the 5th Meeting*, *supra* note 469.

meetings (both ordinary and extraordinary) with its last meeting held in February 2016.⁵⁷ Similarly, for meetings, the two countries do not send the relevant official delegation, which affect the process of an effective decision-making in APTTCA. It is claimed that Pakistan does not usually send high officials and Afghanistan, instead of officials from relevant branches of the MoIC who are at internal level responsible for APTTA implementation, send officials from other ministries, i.e., Ministry of Finance, to APTTCA meeting.⁵⁸ All these factors accompanied by political tensions between the two countries have paralyzed the activities of APTTCA.

Another institution APTTA introduces, in a limited provision, is the Afghan-Pak JEC. APTTA provides that APTTCA should report its activities and decisions to the JEC and does not provide further provisions for the Commission's activity mechanism and decisions regarding APTTCA's activities reports. The question arises whether APTTCA could request the Commission for a final decision when lack of a consensus blocks its own decisions – particularly in the event of a critical transit issue that creates a serious threat to bilateral trade and thus needs to be resolved immediately.

1.10 Dispute settlement mechanism(DSM)

With few gaps, APTTA provides a moderate dispute settlement mechanism. It provides cooperation, consultations and arbitration as means of dispute settlement.⁵⁹ As a primary step, APTTA requires that disputes including concerns and complaints about contraband should be resolved through cooperation in APTTCA. APTTA does not define cooperation but it is a non-binding administrative resolution mechanism offered by APTTCA. If APTTCA fails to resolve the dispute through cooperation, contracting parties can request consultations with one another.⁶⁰ If the consultations fail to resolve the dispute or a contracting party who has received a request for consultation fails to respond to the request within the due period, the other party can request establishing an arbitral tribunal to resolve the dispute.⁶¹ APTTA establishes an arbitral tribunal with three arbitrators, two arbitrators from nationals of each contracting party and a third arbitrator from a third neutral State. The third arbitrator, who would be selected mutually by the contracting parties, chairs the tribunal proceedings. He/She should not have been or currently be resident in any of the contracting parties and should not have been involved in the issue under dispute at any stage prior to the arbitration.⁶²

While APTTA obliges the arbitral tribunal to apply provisions of APTTA to the dispute before it, it requires the tribunal to resolve the dispute in accordance with the WTO dispute settlement mechanism.⁶³ APTTA also provides that the tribunal should apply customary rules of interpretation of public international law when interpreting APTTA provisions.⁶⁴ The arbitral tribunal adopts its award by two-third of votes within 30 days from the date it has been established. The award is final

and not subject to appeal.⁶⁵ APTTA allows the contracting parties to withdraw jointly their disputes at every stage of an ongoing arbitration but prior to issuing of an award.⁶⁶

Compliance with WTO dispute settlement procedures and customary rules of interpretation of public international law gives a moderate feature to APTTA DSM and establishes a clear relationship between APTTA and these regimes when a dispute arises. However, APTTA DSM has few gaps. For instance, the provision on consultations does not provide which authorities from the contracting parties should hold the consultations and who will implement results of the consultation? What would be the difference in terms, procedures and decisions between the dispute settlement through cooperation and bilateral consultations? Similarly, APTTA does not provide for dispute settlement enforcement measures and therefore it remains unclear what should be done when a contracting party that is subject to implementation of a dispute settlement decision does not follow the decision.

In conclusion, the substantive analysis of APTTA provisions suggests that although the Agreement reflects few features of a moderate international transit regime, it has a number of strict ambiguous provisions that have challenged the implementation of the Agreement and affected negatively free and facilitated movement of goods between the two countries. The strict and ambiguous provisions include, inter alia, the transit ban on Indian exports to Afghanistan, different transit security means for transit goods and vehicles, broad yet unclear general and security exceptions and lack of enforcement measures for dispute settlement decisions. Notwithstanding, given the long and undeniable trade relationship between Afghanistan and Pakistan on one hand, and their strategic location to connect one another to their neighboring countries markets on the other hand, maintaining APTTA as a legal regime to govern the transit trade relationship between the two countries is a must. Pakistan is the easiest, shortest and least costly route for Afghan exports to find their market in India and subsequently in South Asia. Similarly, Pakistan does not have direct and easy access to Central Asian countries, which makes its trade with these countries time consuming and costly for which Afghanistan plays a key role to provide the easiest, shortest and least costly route. Therefore, the two countries need to maintain APTTA, bring their APTTA implementation concerns to the cooperation table and suggest necessary cooperation mechanism for the implementation of the Agreement and suggest amendments to the Agreement where necessary.

2. Comparative study of the Chabahar Agreement

⁵⁷ For APTTCA's minutes of meetings see PAJCCI, <http://www.pajcci.com/Regulations.aspx>.

⁵⁸ In-person Interview with Akhlaqi, *supra* note 41. Interview with Omid Ghafari, Director, International Department, ACCI (Kabul. Apr. 18, 2018).

⁵⁹ APTTA, arts 39–48.

⁶⁰ *Id.* art 41.

⁶¹ *Id.* art 42.

⁶² *Id.* art 43.

⁶³ *Id.* art 45.

⁶⁴ *Id.* art 39(3).

⁶⁵ *Id.* art 43.

⁶⁶ *Id.* art 46(2).

Afghanistan, Iran and India signed and ratified the Chabahar Agreement in 2016 to allow trade between Afghanistan and India by transit through the Iranian seaport of Chabahar.⁶⁷ The Chabahar Agreement was concluded for ten years and is subject to automatic extension after this period unless one of the contracting parties denounce the extension.⁶⁸ The Agreement is open to accession for other countries.⁶⁹ The Chabahar Agreement is claimed to serve as an alternative to APPTA. Its conclusion has raised economic and legal debates as to whether and how far the Agreement can provide better opportunities for Afghanistan compared with APPTA. A comparative assessment of provisions of the Chabahar Agreement would answer this question.

2.1 Coverage scope, freedom of transit, duties and charges, transit security, customs formalities and visa facilities

Unlike APPTA, the Chabahar Agreement covers transit of both goods and persons through the seaport of Chabahar but does not provide that such transit would enjoy full freedom.⁷⁰ The term freedom of transit has not been used in the entire Agreement. Similarly, unlike APPTA that abolishes all transit duties and charges except charges levied on services rendered, the Chabahar Agreement does not remove transit duties and charges and rather provides in best endeavor language for their reduction. Article 8(2) Chabahar Agreement provides that “the contracting parties shall seek to reduce government taxes, excise duties and other duties and charges emanating from the services on goods on transit.”

Unlike APPTA, and except for a best endeavor limited provision on harmonization and simplification of customs procedures,⁷¹ the Chabahar Agreement does not provide sufficient provisions on customs procedures and other formalities. As for visas, it contains only an abstract provision, which provides that “contracting parties shall facilitate issuing visas”⁷² and does not provide for type and period of visa. Similarly, the Chabahar Agreement lacks provisions on transit security and transport insurance.

2.2 Transparency and recognition of other international conventions

The Chabahar Agreement does not contain provisions on transparency. As for relationship with other international conventions and agreements, the Chabahar Agreement, the same as APPTA, provides for the non-effect of its provisions on rights and obligations of the contracting parties under their international conventions and agreements.⁷³ It further provides that in the event of a conflict between provisions of the Chabahar Agreement and other international conventions and agreements, the contracting parties would discuss a resolution of the conflict in the Coordination Council established under the Agreement.⁷⁴ The provision on conflict resolution is, however, ambiguous in the sense that it leaves the issue to be decided by

⁶⁷Chabahar Agreement,prmb.

⁶⁸*Id.* art 15.

⁶⁹*Id.* art 12.

⁷⁰*Id.* arts 1(o), 2, 5(1), 3(1).

⁷¹ Article 8(1) of the Chabahar Agreement provides that “contracting parties shall take steps to standardize, simplify and harmonize customs rules and procedures governing movement of goods and passengers along international transit and transport corridors.”

⁷²*Id.* art 5(2).

⁷³*Id.* art 2(3).

⁷⁴*Id.* art 2(3).

the Council without providing a mechanism for conflict resolution i.e., whether the Council should resolve the conflict in accordance with the Vienna Convention on the Law of Treaties (VCLT) rules on treaty conflict resolution.

2.3 Institutional arrangements

The Chabahar Agreement establishes the Coordination Council, Follow-up Committee and the Secretariat as the institutions responsible for the implementation of the Chabahar Agreement. The Coordination Council is the highest decision-making authority responsible to implement and monitor implementation of the Agreement, endorse proposals and amendment requests from the other two institutions and resolve disputes arising out of the Agreement.⁷⁵ The Council consists of deputy ministers or their legal representatives from the Ministry of Transport and Civil Aviation of Afghanistan, the Ministry of Road and Urban Development of Iran and the Ministry of Foreign Affairs of India. The Council holds ordinary meetings at least every year and adopts its decisions by consensus of votes, which could be criticized for the same reasons as the APPTCA decision-making mechanism under APPTA.⁷⁶

Similarly, the Follow-up Committee is responsible to facilitate implementation of the Agreement and undertake procedural and administrative actions. It particularly undertakes tasks such as study of peculiar issues related to customs duties and charges, examining and determining transit routes, proposing necessary administrative protocols for implementing provisions of the Agreement and providing periodical progress reports to the Coordination Council on the implementation of the Agreement.⁷⁷ The Committee consists of officials from the relevant ministries at the minimum level of General Directorate or equivalent to it. The Committee holds its ordinary meetings every year one month ahead of the Coordination Council annual meeting.⁷⁸

Unlike APPTA, the Chabahar Agreement does not recognize participation of the private sector in its institutions. It does also not provide for commercial presence in the territories of the contracting parties to facilitate coordination and communication among traders and other interested groups. These are among the areas that make the Chabahar Agreement less liberal and less supportive of free trade.

2.4 Dispute settlement mechanism (DSM)

The Chabahar Agreement introduces negotiation, administrative resolution and arbitration as its DSM.⁷⁹ Negotiation is the first step in resolving disputes under the Chabahar Agreement and is similar to consultation under APPTA. When negotiation fails to resolve a given dispute, the contracting parties can request the Coordination Council for administrative resolution. When the Cooperation Council fails to resolve the dispute within a year, the contracting parties can establish an arbitral tribunal to resolve the dispute. Unlike APPTA, the Chabahar Agreement is silent on whether it recognizes rules and procedures of other international DSMs such as those of the WTO. Similarly, while it provides that in the event of a conflict between provisions of the Chabahar

⁷⁵*Id.* art 9.

⁷⁶*Id.* arts 9(1), (3), (4).

⁷⁷*Id.* art 10.

⁷⁸*Id.*

⁷⁹*Id.* art 11.

Agreement and other international conventions and agreements the Coordination Council would discuss the normative conflict resolution, it does not provide any mechanism for the discussion of the normative conflict and does also not have recourse to use of the customary rules of interpretation of public international law, which is a common treaty conflict resolution mechanism broadly used by States.

To conclude, a comparative study of provisions of APTTA and the Chabahar Agreement suggests that the legal benefits of the two agreements cannot be weighed equally. Each Agreement presents different legal benefits and none of them would serve as a better alternative to another. Particularly, the Chabahar Agreement does not serve as a viable alternative to APTTA but, instead, could only serve as an additional regional transit regime to Afghanistan's transit with India and other South Asian countries. The Chabahar Agreement, however, is and would remain the only alternative for the transit of Indian exports to Afghanistan, if Afghanistan and Pakistan would not come to a solution over transit of Indian exports to Afghanistan through the territory of Pakistan.

3. Conclusion

Afghanistan' transit regime combines national, regional and multilateral rules and regulations. It particularly recognizes and applies the TIR customs transit procedures and the WTO rules on freedom of transit. In addition, Afghanistan has concluded a number of plurilateral and bilateral transit agreements for further facilitation of its transit relationship with neighboring countries. The recent concluded transit and transport agreement, the Lapis Lazuli Route Agreement is among the strategic plurilateral transit agreements that paves a transit path for Afghan products to reach European markets. Similarly, the Chabahar Agreement is another strategic transit and transport agreement that Afghanistan concluded in recent years to seek alternative transit routes to India and other South Asian countries and compensate for transit challenges the country face under APTTA.

Although the Chabahar Agreement has helped Afghanistan to reduce its dependence on Pakistan to access the sea, the Agreement presents substantial gaps and is not recommendable to serve as an alternative to replace APTTA. For instance, it does not provide explicit provisions on important issues including freedom of transit, transparency and MFN and NT principles, does not remove transit duties and charges, and instead only encourages the contracting parties to reduce them. Moreover, from infrastructural and political perspectives, the Chabahar port, which is the only seaport under the Chabahar Agreement, faces uncertainty as it is still in a pilot stage with the need to the development of infrastructural facilities. Likewise, the restart of the US economic sanctions against Iran has affected Iran's trade with the rest of the world including investments in the infrastructural projects of the Chabahar port. Although US president Donald Trump issued a waiver to infrastructural investment projects by India in the Chabahar port,⁸⁰ given the deadlock in negotiations between Iran and the

US and the rapid downfall of Iran's economic situation, it is difficult to rely on the duration of the waiver and ultimately on the viable and facilitated operation of the port. Some perhaps still suggest that due to the tense political relations between Afghanistan and Pakistan and between Pakistan and India the Chabahar Agreement is an alternative to APTTA, but the volatilities in political changes for the implementation of the Chabahar Agreement should also not be underestimated. This would affect the Agreement as a viable alternative.

The Chabahar Agreement, however, would remain the only alternative for the transit of Indian exports to Afghanistan, if Afghanistan and Pakistan would not come to a solution over transit of Indian exports to Afghanistan through the territory of Pakistan.

Acknowledgement

The author would like to thank the Higher Education Development Program (HEDP) in the Ministry of Higher Education of Afghanistan for funding this research paper.

References

- [1]. General Agreement on Tariffs and Trade, Oct.30, 1947, 61 Stat. A-11, 55 U.N.T.S. 194.
- [2]. Jaridai'i Rasmi Jumhuri'isla'mai Afghanistan [The Official Gazette of the Islamic Republic of Afghanistan], Mo'afiqatna'mi Tejarati Transit Bain Jumhuri'isla'mai Afghanistan wa Jumhuri'isla'mai Pakistan [Afghanistan Pakistan Transit Trade Agreement], 11 Hoot 1343 [Mar. 2, 1965] 57.
- [3]. The Official Gazette of the Islamic Republic of Afghanistan, Mo'afiqatna'mi Tejarati Transit Bain Jumhuri'isla'mai Afghanistan wa Jumhuri'isla'mai Pakistan [Afghanistan Pakistan Transit Trade Agreement], 10 Aqrab 1390 [Nov. 1, 2011], 1063.
- [4]. The Official Gazette of the Islamic Republic of Afghanistan, Mo'afiqatna'mi Ejadi Dahliz Hamlwa Naqlwa Transit Bain-ul-milali Miani Jumhuri'isla'mai Afghanistan, Jumhuri'i Hind, wa Jumhuri'isla'mai Iran [International Transport and Transit Agreement between the Islamic Republic of Afghanistan, Republic India and Islamic Republic of Iran], 25 Hoot 1395 [Mar. 5, 2017], 1250.
- [5]. Afghanistan Pakistan Transit Trade Coordination Authority [APTTC], MIN. 1st mtg, 3 (Islamabad. Feb. 11–12, 2011).
- [6]. APTTC, MIN. 2nd mtg, 3 (Kabul. May. 31–June 01, 2011).
- [7]. APTTC, MIN. 4th mtg, 4 (Kabul. Oct 8– 9, 2013).
- [8]. COUNTRY PROFILE: PAKISTAN, AFGHANISTAN, 1998–99, 5–48 (London. The Economist Intelligence Unit Ltd., 1999).
- [9]. Christine Fair, Pakistan's Relations with Central Asia: Is Past Prologue? 31 J. STRATEGY STUD, 201, 216 (April 2008).
- [10]. Government of Pakistan, FOREIGN OFFICE YEARBOOK 2002–03, 11–13 (Foreign Office of Pakistan, 2003).
- [11]. Government of Pakistan, FOREIGN OFFICE YEARBOOK 2005–06, 10–14 (Foreign Office of Pakistan, 2006).
- [12]. Government of Pakistan, Development Authority of Pakistan, Country Report on Afghanistan: Executive Summary (2018) <https://www.tdap.gov.pk/word/AFGHANISTAN.pdf> (Prepared by Mohsan Mazhar).
- [13]. Harsh V. Pant, *The Chabahar Disconnect*, Commentaries (Observer Research Foundation, July 19, 2019),

⁸⁰ Radio Free Europe, *U.S. Exempts Iran's Chabahar Port from Sanctions in Nod to Afghanistan*, Nov. 7, 2018, Radio Free Europe, <https://www.rferl.org/a/us-exempts-iran-chabahar-port-project-from-sanction-in-nod-to-afghanistan-india/29586874.html>; see also Harsh V. Pant, *The Chabahar Disconnect*, Commentaries (Observer Research

Foundation, July 19, 2019), <https://www.orfonline.org/research/the-chabahar-disconnect-52964/>.

- <https://www.orfonline.org/research/the-chabahar-disconnect-52964/>.
- [14]. Institute for the Study of War, Afghanistan and Pakistan, <http://www.understandingwar.org/pakistan-and-afghanistan>.
- [15]. PAJCCI, *Pak Afghan Trade*, 2 (2018).
- [16]. Kalsoom Hanif, Pakistan Afghanistan's Economic Relations after 9/11, 31 J. PUNJAB. U. HIST.SOC'Y, 94–97 (June 2018).
- [17]. Ministry of Industry and Commerce [MoIC], Afghanistan National Trade Policy 2018–2023, 52 (2018).
- [18]. MoIC, AsnadwaProcejarhaezaroridarChaokat APTTA [Required Documents and Procedures under APTTA], <http://moci.gov.af/fa/page/8603/8604/8605>.
- [19]. Pakistan Bureau of Statistics, www.pbs.gov.pk/sites/default/files/external_trade/8_digit_level/exp/5_exp_2008-09_to_2012-2013.pdf.
- [20]. PAJCCI, *Draft Annual Report 2014*, 28 (2014).
- [21]. Rizvi, Shamim Ahmed, *Pak–Afghan Trade*, Pakistan Economist Weekly (Sept. 9–15, 2002).
- [22]. Razia Sultana, *Pakistan – Afghan Economic Relations: Issues and Prospects*, 64 PAK. HORIZAON, 21, 28–29 (January 2011).
- [23]. Radio Free Europe, *U.S. Exempts Iran's Chabahar Port from Sanctions in Nod to Afghanistan*, Nov.7, 2018, Radio Free Europe, <https://www.rferl.org/a/us-exempts-iran-chabahar-port-project-from-sanction-in-nod-toafghanistanindia/29586874.html>.
- [24]. Tolo News, *News*, Jan. 19, 2019, <https://www.youtube.com/watch?v=-q-fnUakZ28> [From min 19:10 to min 21:57].
- [25]. SAYEED WAQAR HUSSAIN, *THE IMPACT OF AFGHAN TRANIT TRADE ON NWFP'S ECONOMY 1–8* (Peshawar. Pan-Graphics Ltd., 2008).
- [26]. Transit Cargos to Move through Registered Carriers Only, Feb. 7, 2017, Pakistan Customs news Portal, <https://customnews.pk/2017/02/07/transit-cargo-to-move-through-registered-carriers-only/>.
- [27]. The Pakistan Business Council, *Afghanistan's Transit Trade Patterns Pre and Post APTTA* (June 2015), <https://www.pbc.org.pk/wp-content/uploads/AfghanistansTransitTradePatternsPrePostAPTTA.pdf>.
- [28]. UN, Office on Drugs and Crime, *Country Profile: Pakistan*, <https://www.unodc.org/pakistan/en/country-profile.html>.
- [29]. World Bank, *Analysis of Afghanistan Pakistan Transit Trade Agreement* (May2014).
- [30]. World Bank, <https://wits.worldbank.org/CountryProfile/en/Country/AFG/Year/2016/Summary>.