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Trade Justice at a Crossroads: Barriers and Bottlenecks in Dispute Settlement Mechanism of the World Trade Organization

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Abstract: It is well known that global disagreement attracts greater attention than the national one, but a trade dispute is more sensitive and needs more active consideration. Dispute settlement process of the World Trade Organization (WTO) is a distinctive feature exclusively designed to ensure trade equity and a proactive forum for resolving global trade issues. The World Trade Organization (WTO), which succeeded the General Agreement on Tariffs and Trade (GATT) framework, has been in the force in ensuring stability and efficiency in global commercial relations. As times evolve, global trade is increasingly intricate and linked; its boundaries are becoming more apparent. The dispute settlement process in World Trade Organization (WTO) is not outdated in its function; instead, it calls for modernization to address evolving demands and growing trade patterns. This study examines the structural and procedural dimensions while emphasizing certain practical restrictions, including the exclusion of non-governmental entities and the conditions for inclusion. The research emphasizes procedural issues and implementation inadequacies, suggesting modifications to improve its efficacy, flexibility, productivity, and legitimacy.

Keywords: World Trade Organization (WTO); dispute; settlement; mechanism; limitation; trade

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1. Introduction

The dispute settlement mechanism of the World Trade Organization (WTO), hereinafter referred to as the WTO, settles the trade disputes between its members. It has been working with great effort since 1995.[1] Aiming for an improved and more concrete system to settle trade disputes. Some people get confused that the dispute settlement system based on the Dispute Settlement Understanding (DSU) is an entirely new production, and some people think that it's an upgraded Xerox of the dispute settlement system of General Agreement on Tariffs and Trade (GATT) hereinafter referred to as the GATT. However, it is neither an entirely new concept nor is it a carbon copy of the previously existing dispute settlement mechanism.[2] The limitation and complexity of the GATT dispute settlement mechanism and loopholes of its practical application demanded a modified and practically framed mechanism. The system under GATT was a power-based system that could not endure flaws like impractical time framing.[3] It replaced the mother dispute settlement system under the GATT (Secretariat 2017), the new system got powered by the Dispute Settlement Understanding and is working successfully despite having practical flaws and defects. Shortcomings and flaws are visible in this framework now due to emerging complex global trade issues. This study focuses on its structural and procedural limitations suggesting reformations for a better and more practical service by the system.

2. Methods

This study is based on qualitative methods connecting doctrinal legal analysis with comparative approach critically evaluating structural and procedural aspects, implementation errors, and potential reforms by drawing on existing literature, legal texts, case studies, and expert opinions. The research relies on secondary data sources, including legal frameworks & agreements, case laws

1 History of the Multilateral Trading System: Birth of the WTO. Available online: https://www.wto.org/english/thewto_e/history_e/history_e.htm (accessed on 1 March 2025)

2 Historic Development of the WTO Dispute Settlement System: Dispute Settlement System Training Module (Chapter2). Available online: https://www.wto.org/english/tratop_e/dispu_e/disp_settlement_cbt_e/c2s1p1_e.htm (accessed on 1 March 2025)

3 Dispute Settlement in the WTO and U.S. Trade Agreements. Available online: https://crsreports.congress.gov/product/pdf/IF/IF10645 (accessed on 1 March 2025)

and scholarly articles & reports. The findings aim to pinpoint procedural gaps and structural limitations and propose recommendations to counter them.

3. Results and Discussion

3.1 Errors in the Participation Process

The WTO dispute settlement mechanism does not offer strong participation for a nongovernmental party, body, or individual. Even if a nongovernmental party, body, or individual has a substantial interest in the matter, they cannot directly join the dispute settlement system (Reinisch and Christina 2001). Even if a nongovernmental party, body, or individual has a substantial interest in the matter, they cannot directly join the dispute settlement system. (Schuyler 1997).Their participation is limited to the submission of an amicus brief. The panel has discretion to accept or reject the submission by private parties. Even if a private party puts effort into being a part of the WTO dispute settlement mechanism, its effort has a fifty-present chance. If such submission is rejected, the effort goes in vain(Trachtman and Moremen 2003). Members can be included in a consultation with the permission of the consulting party under article 4. But there is no provision regarding the status of private parties. It hints towards the non-involvement of a private party in consultation. Not only is the private party participation limited to an amicus brief, it also has to wait till the panel procedure to do so. But in practice, most of the cases get solved or mutually settled at the consultation stage before the formation of the panel (Alilovic 2000). In those cases, private party participation remains unreached. At the implementation stage, there is no consideration for the private parties, though they are directly affected by the implementation. As the private sector, or the non-governmental actors, are very intimately connected to the word trade, the private sector suffers more than the government sector, so ignoring their active participation is an impractical approach (Shell 1996).

There exists a public-private relationship as to trade in every country. The government authority, with the assistance of private parties, develops trade practice ahead. The government and private sector bond to protect their respective trade interests and share resources(Davey 2005). A private party can pressurize the government authority to bring a dispute before the WTO Dispute Settlement System and continue the dispute settlement proceedings under pressure. Sometimes such disputes create tensions among the disputed countries. The mechanism ignores the strong status of private bodies, which not only makes it impractical but also narrows down the wide objective of the WTO dispute settlement mechanism. For example, the famous Banana Dispute, where the US brought the complaint on behalf of private parties, namely the Chiquita Brands International Inc. and Hawaiian Banana Industry. In The Japan - Measures Affecting Consumers Photographic Film and Paper (Ds-44/R), the dispute was between US Kodak Company and Japanese Fuji Company. The former blamed the latter for the use of unfair practices under government aids.[4] In this dispute the issue was raised between two private parties, but the US and Japan fought in the settlement phase (Islam 2006).

To overcome this shortcoming, a standard guideline for the participation of private parties clarifying each stage, including consultation, is necessary, even if it is an amicus brief. The objective of the WTO dispute settlement mechanism must be understood in a wide way. Its objective is not only to settle a dispute but also to clarify provisional issues in the trade world. Private parties are a strong and important part of the trade world, and their interests cannot be ignored. Participation of a private party will act as a booster in this regard by reducing the trade tensions and making the system more active. The more users a system has, the more actively it works to meet the needs of its users. There should be guidelines as to which and what kind of private party will be represented by the government body in the dispute settlement system in the WTO. It will reduce domestic corruption by encouraging the private party participation in a public-friendly trade practice leading to a strong public-private partnership.

3.2 Scrawny Shield Mechanism for the Third Parties

Though the dispute settlement mechanism of the WTO expressly recognizes the participation of a third party in the dispute settlement system, the mechanism does not provide any guidelines for the rights of the third party. A third party can participate in the dispute settlement system of the WTO after the panel stage (Busch and Reinhardt 2006). Before the panel procedure in the consultation stage, the right of a third party to join the consultation depends upon the consulting parties (Alilovic 2000). As per article 4.11 of the DSU, the third party can be part of the consultation when they consent from the consulting parties that the interest of the third party is well founded (Konken 2018). Determination of the well-founded standard of the third-party interest depends on the consulting party. The consulting party has discretion to include or exclude the third parties from the consultation. So, if a third party is not included in a dispute and it gets solved through consultation and never reaches the panel, the third-party participation remains unnoticed. In practice, most of the disputes in the WTO dispute settlement mechanism get solved in the consultation process, and the rights of the third party get ignored (Busch and Reinhardt 2006).

In the panel stage, the 3rd party has no say in the selection of the panelists. It does not have any status to start an appeal. In the implementation stage, the position of the third party is not well established; rather, it must be understood contextually (Jackson, 1998). Though Article 10 expressly recognizes the participation of the third party in the panel stage; it does not provide any direct remedy for the third party for impairment or inconsistencies; rather, it suggests a general dispute settlement proceeding under the original panel (Choi 2023).

When a third party gets excluded in consultation or it does not get a fair outcome, it must go for a new dispute settlement from the start (Antoniadis 2002; Shepherd and Stone 2015). So, protection of the rights of the third party will reduce disputes regarding the same matter (Steinitz 2010). Providing some mandate for the inclusion of third parties in the consultation, their rights can be protected. It's also necessary to set a standard to determine the relevancy of well-founded interest. This will reduce the use of diplomatic exclusion of third parties by the consulting party in the consultation stage and bypass the unnecessary inclusion of the third party in the consultation (Petersmann and Ortino 2004). The position and consideration of a least developed or developing country as a third party need to be clarified preciously. Their interest can be considered without prejudice to the right of other members to avoid unnecessary complaints as to the same matter (Sahani 2016).

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[4] Available online:https://www.wto.org/english/tratop_e/dispu_e/44r00.pdf (accessed on 1 March 2025)

3.3 Quick Sanding Time Settings

When a system is too rigid for deadlines and rules, system users try to apply the loopholes frequently to get protection from the rigidity. Contrarily, when a system is too flexible for rules and time frames, it results in delays or not-so-honest outcomes, because the users try to benefit from flexibility. The dispute settlement mechanism of the WTO provides flexibility for time frame almost at every stage of the settlement (Davey 2014). In consultation, the panel stage and implementation stage consider the needs of the party and allow extension of the time frame (Palmeter et al. 2022). Sometimes such an extension upholds the fair outcome and secures satisfactory participation by the party. However, duration of time extension remains questionable. Too much time flexibility allows a party to delay or postpone the adjudication. When a party assumes that further proceedings may go against its interest, it may delay the proceedings by seeking extra time. Similarly, an implementing party may delay his steps towards the implementation by this flexibility.

The general rule under the provided mandate is that it needs to solve a dispute about up to months from request to the withdrawal of the impairment. But in practice it takes a lot more time (Islam 2006). The mechanism provides to rectify the position of the party at various stages. At interim review stage, the participant can rectify the descriptive part of the initial panel report (Poswal and Kumar 2022). Such unnecessary steps delay the case, but also allow amicable settlement, which can be done during the consultation (Davey 2014). It will not be practical to change the pattern of the appellate stage, but the interim review stage can be skipped to prompt the settlement. The stage can be made shorter or, as a formality, not to prejudice the right of the party (Steinbach 2009). It is necessary to provide a flexible time frame, so the term "consideration of reasonable time" can be changed into "consideration of compelling reason" for time extensions at various stages.

3.4 Dodges in General Provision

While providing general provisions for the dispute settlement mechanism, DSU in its art. 3.2 stated, 'recommendations and rulings of the DSB cannot add to or diminish the rights and obligations provided in the covered agreement (Fukunaga 2006)'. Thus, DSU narrows down the scope of the outcome of the dispute settlement and limits it only to the end of dispute (Zimmermann 2006). Such prohibition narrows down the scope of the dispute settlement mechanism and provides hidden power to the party to raise an objection as to the recommendations and rulings on this ground (Tarullo 2005). In practice it happens frequently. If we look into the appellate body report of the Chile-Alcoholic Beverage,[5] dispute in para 79 and Mexico-Taxes on Soft Drinks in para 53,[6] such practice of objection raised by the party will be visible.[7]In the absence of such limitations, the recommendations and rulings from the settlement would have a stronger and wider consideration for duties and liabilities of the parties, and the outcome would be more concrete. It would also have a scope to exercise its wide jurisdiction and set new mandates moving ahead from the traditional covered agreement (Bartels 2001). Hence, there would be a possibility to set settlement procedure standards. The panel must determine the minimum and maximum standards of the dispute issue by balancing it with the covered agreement (Oesch 2003). While it recommends something or gives a ruling, it must pay attention to the nexus between its providing and covered agreement. A wide and stronger dispute settlement system in the WTO demands flexibility in article 3.2 of the DSU without prejudice to the duties, rights, and liabilities of the members (Cameron and Gray 2001).

3.5 Fault in the Privacy Scheme

The dispute settlement mechanism is more rigid than the necessity of maintaining confidentiality (Marceau, 1998). Ensuring confidentiality at the consultation stage between two parties is okay, but this confidentiality in panel-proceedings and appellate proceedings for submission and drafting of reports and other proceedings is too rigid (Zhang 2007; Cook 2018).[8] It deprives other parties who are substantially interested in the dispute matter. The member and private party get access only to a non-confidential summary party of the submission and other things. What happens behind the closed door remains confusing and questionable by the non-joining party (Busch and Reinhardt 2000). It deprives private parties like NGOs, individuals, and experts to form a well-established thought of trade adjudication.

Such flexibility may create a huge opportunity in the field of research and trade study. This may ensure a fair-trade practice and reduce further dispute. However, there must be a nexus between the flexibility for confidentiality and participants privacy issues (Pauwelyn 2002). The appellate body report of the Canada-Wheal Export and Grain Imports,[9] in Para 5.6, exercised the principle of confidentiality for the consultation process. The appellate body in the US—Poultry (China)[10]in paras. 7.35 and 7.36 prohibited the panel from focusing on the happenings of the consultation stay between the participants. Same happened in the Korea - Alcoholic Beverages,[11] in para 23 the appellate body-imposed bars taking and using information from the consultations stage to the next stages. In the Brazil Aircraft dispute, the appellate body report in para 121 that the panel and appellate proceedings were confidential

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5 DS87: Chile — Taxes on Alcoholic Beverages, Para 79. Available online: https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds87_e.htm (accessed on 1 March 2025)

6 DS308 Mexico — Tax Measures on Soft Drinks and Other Beverages. Available online: https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds308_e.htm (accessed on 1 March 2025)

7 WTO Analytical Index: DSU Article 3 (Jurisprudence). https://www.wto.org/english/res_e/res_e/analytical_index_e.htm (last accessed on Feb. 27, 2025)

8 Dispute Settlement Understanding (DSU): Articles 4.6, 14, 17.10, 17.11, 18.2, and Paragraph 3 of Appendix 3, Working Procedure. Available online: https://www.wto.org/ (accessed on 1 March 2025)

9 DS276: Canada — Measures Relating to Exports of Wheat and Treatment of Imported Grain. Available online:https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds276_e.htm (accessed on 1 March 2025)

10 DS392: United States — Certain Measures Affecting Imports of Poultry from China, Available online:https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds392_e.htm (accessed on 1 March 2025)

11 DS75: Korea — Taxes on Alcoholic Beverages, 14 July 2000. Available online: https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds75_e.htm (accessed on 1 March 2025)

(Sacerdoti 2019). In paras 123-124, it directs to maintain the secret of procedures and submission of identified confidential elements and limit its access only to the participants. The same principle was maintained by the appellate body in para 4 of the Australia-Apple, Annex III.[12]

3.6 Defective Appointment System of the Panelist and Formation of the Panel

Under article 8.6, the participants have the flexibility to use their discretionary power for the selection of the panelists (Wagner 2020). They can disagree with the nominations of panelists by the secretariat showing compelling reasons. But this article does not clarify the nature, extent, and standard of such compelling reasons. Hence, the unwilling party may easily delay the settlement by opposing the panelist nomination, showing any reason. When a party in any dispute settlement proceeding, whatever it is, gets a chance to select and change the person by whom it will be judged, in most cases the party tries to take maximum advantage from it to secure his part of interest (Shoraka 2006). Though this is a flexible approach promoting equity and satisfactory outcomes, sometimes the dishonest use of this flexibility may hamper the fair outcome, so it is important to pay extra attention to such flexibilities during practical application. To deal with this inconsistency, there may be a standard guideline as to the nature, extent, and reasonable standard of compelling reason to reject panelists by nominations. The ad hoc basis formation of a panel for each case is too impractical. The number of disputes in the dispute settlement mechanism in the WTO is not very low (Iida 2004); rather, it is more frequently increasing as compared to other international dispute settlement systems (Reich 2017; Leitner and Lester 2004). Considering such an increasing number of disputes, it is not a practical decision to form a new panel on an ad hoc basis for each new dispute. This ad hoc basis dispute puts more pressure on the system and makes the settlement proceeding much lengthier, as example ad hoc basis formation needs times for formation, and again, if the party opposes the panelist nomination, then further formalities demand extra time. Such extra time adds a length to the whole settlement system. If the formation of the panel would be like the appellate body formation, such standing formation involving panelists with sufficient relevant knowledge and experience would boost the system by a speedy time frame.

3.7 Complications in the Appellate Stage

The first defect as to the appellate proceedings is found in that it is too flexible towards the complainants and respondents as to allowing appeal without setting a minimum criterion to go for appeal, as per the appellate body report of the Shrimp-Turtle dispute, only informing the decision to be appealed is enough to meet the criteria (Puls 1999; Islam 2006; Sakmar 1999; Owen, 2000).

On the other hand, it does not provide any chance to the third party to file an appeal. In Article 17.4, the DSU expressly states that only the parties, not the third party, can file an appeal (Mehndiratta et al., 2021). So, when the complainant and respondents get an outcome that goes against the interest of the third party or it does not fulfill the interest of the third party as expected, the third party has nothing to do ahead in that dispute (Baroncini 2019). Even if the parties go for appeal, the rights of third parties depend on previous involvement in panel proceedings.

When a party assumes that its interest will be at risk from the panel outcome, it may apply such impractical flexibility and keep dragging the dispute to the next stage of appeal. Sometimes the defaulting party exercises this trick only to continue the dispute ahead, and, in the meantime, the defaulting party takes the maximum benefits of the default. If a guideline or rules can be provided as to the precondition of filing an appeal, then it will not only reduce the time limit but also contribute to a fair-trade practice. Again, ensuring participation of the third party will reduce the possibility of new disputes in the same subject matter. Another inconsistency in the flexibility given by the DSU in the appellate stage is that the party can frequently withdraw the appeal at its own will (Dhlamini 2021; Steinbach 2009; Smith 2003), though they are directed to do so for re-filing or scheduling reasons, but in practice the party uses this as an intention to delay the proceedings. A guideline as to justify mandates of withdrawal or withdrawal criteria may reduce such inappropriate practices.

3.8 Lack of Steadiness as to Information Seeking and Amicus Curiae

Article 13 of the DSU provides exclusive power to the panel to seek information from relevant groups or individuals (Behboodi 2000). When the panel informs the authority before seeking information from a source within its jurisdiction, the source automatically comes under surveillance of the member country under whose jurisdiction it exists. When there exists such direct or indirect surveillance, the source will never dare to provide any kind of information or submission that goes against its jurisdictional owner country. Again, whatever a source is, it remains connected with the governmental or near-governmental authorities directly or indirectly. So, it is quite an easy task for the member country to influence such sources through authority. If such loopholes are applied, not only does the purpose for seeking information become unsuccessful, but also there comes a chance of fraudulent change. In this there is no satisfactory solution, because without informing the members, authorities seeking information from their source will violate the right of their privacy. In such a case, it may be so; there should be an agreement as to the freedom of seeking information from the relevant source for concrete reasons, and to protect the right of privacy, the members may expressly provide some mandates that these sources shall not be investigated without permission.

Another huge loophole in the dispute settlement mechanism of the WTO as to rights to seek information is that it is not mandatory in nature. Sought information or amicus briefs are not accepted in all cases; the panel has total discretionary power to accept or not accept any such information or amicus brief. This is a huge inconsistency that a panel may seek information from a relevant source, but after that, it may accept or reject it at its own will. This game of wills adds more time in the dispute settlement system, resulting in a lengthy settlement. When a source already knows that its submission may be accepted or rejected, such a 50-50 chance discourages the source from putting more effort into a submission; as a result, the fairness of such a submission remains compromised. In many dispute settlements, it happens that the panel demanded an amicus brief and thereafter it rejected so.

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[12] WTO Analytical Index: Article 4 and Article 17 DSU (Jurisprudence). Available online: https://www.wto.org/ (accessed on 1 March 2025)

For example, In the US-Shrimp dispute, the appellate body report stated in para 104 that there is no mandate to give weight to what has been received. Again, in para 106 it said that it is the discretionary power of the panel; it may accept or reject information or advice whether it demanded it or not. Again, in EC-Seal Products in paras. 166-167, the appellate body highlighted a similar view. In Australia - Automotive Leather II the appellate body stated that the panel authority is discretionary as to seeking information from the party. In Turkey, in paragraphs 4.1 and 4.3, such discretion as to non-parties was reflected. In the Argentina - Textiles and Apparels in para 82, 83, and 86, the discretion not to accept and consider such information was highlighted. If we look into the appellate body report of cases before the DSB, many examples of such practice of discretionary power under article 13 of the DSU will be visible.[13]

Again, there is another problem about seeking information from the experts by the panel, though the panel can appoint experienced experts from relevant fields for technical, scientific, and other relevant extra aid; here the practice of doing so is much less than in the other dispute settlement system (Pauwelyn 2002). Among 227 adopted panel reports, only sixteen consisted of appointments of such experts by the panel till 2017 (Valles 2018).

The right to seek information is necessary to get a better and justified outcome, but when it goes beyond the limit, it works reversely and results in a negative way, as, for example, sometimes the panel uses its discretionary power and seeks information from any source where it is not necessary, and after the submission, it declares that as inadmissible. In such a case, such unnecessary exercise of discretionary power is dragging the settlement system unnecessarily for a long time involving such submission. To avoid such loopholes, there should be a minimum standard as to the extent of such rejection. A guideline is necessary to exercise this discretionary power by the panel. The guideline should define the term in article 13 "which deems appropriate.". If that is not possible, at least a level of relevancy and irrelevancy should be guided. If it can be done, many sources, including nonparties, nongovernmental organizations, individuals, and bodies, will build up trust, and even if they cannot participate directly in the settlement, they will ensure a contribution to the fair settlement to their best. These limitations and suggestions may not be that important as compared to other limitations and reformations, but attention to such little things may boost the dispute settlement system, even if it can do very little that will give a push ahead to the system.

3.9 The Execution Errors

The dispute settlement of the DSU treats compliance as the first remedy (Schaefer, 2012). Other remedies are considered only when the losing party fails to comply with the rulings and recommendations of the outcome (Grimmett 2011). It aims to withdraw the inconsistent measures by compliance from the losing party. But the losses and injuries suffered by the complaining party before the adjudication period or implementation remain unsolved. If one party owns and the losing party complies with the implementation, entire recovery of the loss or injury by the aggrieved party remains unachieved. When a party does not aim to implement, it may use flexibility by demanding time for implementation. Where a losing party consents to implement, it may unnecessarily take a long time to do so, while the aggrieved party suffers (Imdad 2003). If the impairment is already proved and the losing party consented to do so, even after that, the mechanism does not stop the implementing party from exercising such impairment. Hence, the aggrieved party continues suffering. Being helpless, the aggrieved party must go for a mutual agreement to minimize their loss compromising its interest. Usually, developed countries use delay against the weak country. Hence even if the weak party wins, it does not get justice (Grimmett 2011). The lamb meat dispute between Australia and the US is a practical example of this (Mercurio 2003). In this case, though Australia won, it had to come to a mutual agreement with the US to minimize its loss due to the delay of implementation by the US (Goh 2001).

When the compliance stage fails, the next stage of compensation lacks practicability. The extent of the compensation has to be determined by consultation with the defaulting party. Even if it is mutually agreed, a part of the compensation remains compromised due to fear of other limitations. The compensation is not monetary, and the aggrieved party gets some benefits and extra facilities like tariff reduction. Such benefits cannot recover the loss of the aggrieved member, and the ongoing loss for the impairment remains unbarred and adjudicated. When an aggrieved party seeks the last method of trade sanctions or retaliation (Liu 2023), it conflicts with the principle of trade liberalization of the WTO (Mercurio 2009). Such trade retaliation affects the weak aggrieved country more than the stronger default country. Hence the weaker never goes for this last method as can be seen in the banana case among the US, Ecuador, and the European Union (McCall Smith 2006). The dispute settlement system aims to protect the interests of the party. If the process succeeds it cannot remedy the sufferers (Shoraka 2006). If a country goes for trade sanctions or retaliation, it must face the boomerang effects, and it also loses its export market (Bronckers and van den Broek 2005).

Another inconsistency in the implementation mechanism of WTO dispute settlement is that it has no institutional body that can work for a prompt implementation (Rosas 2001; Choi 2007). It has only a surveillance mechanism, but it does not clarify what will happen if it finds a party guilty after surveillance. Consideration of loss caused by the default party to the aggrieved party during the implementation phase may protect the interest of the weak aggrieved party. A well-justified monetary compensation may do wonders in this regard, but the chance of intentional practice shall not be overlooked. Finally, an institutional body to aid the implementation may boost the implementation.

It is true that full implementation is not possible considering the present scenario. Strong economic conditions of the developed country and the weaker condition of other countries work as a barrier to implementation. But a consideration of loss caused by the defaulting party to the aggrieved party during the previous and implementation phase may protect the interest of the weaker aggrieved party. A well-justified monetary compensation method may do wonders in this regard, but the chance of intentional practice shall not be overlooked. Finally, an institutional body to aid the implementation may boost the implementation.

The focus of the dispute settlement system of the WTO shall not be the only withdrawal of impairment or to bring the party under compliance (Ali 2003). It should focus the settlement of the dispute between the parties. Because sometimes even after the

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[13] WTO Analytical Index: Guide to WTO Law and Practice (Art. 13, Jurisprudence). Available online:https://www.wto.org/ (accessed on 1 March 2025)

withdrawal of the impairment or compliance by the party, disputes exist regarding the suffering or losses and injuries. In these cases, such withdrawal or compliance just makes a formal ending to the adjudication. It does not settle the dispute in the true sense. So, the dispute settlement system should rather focus on the true settlement than a formal ending (Fukunaga 2006).

4. Conclusions

Each system has its own limitations. If a system does not have any limitations in the beginning, with the passage of time and growing needs, it has to offer limitations. The main challenge is to find a way to deal with the limitations and modify the system to reduce suffering from such application of limitations. The WTO replaced the GATT system and effectively addressed some practical flaws. But time to time certain procedural loopholes have emerged related to participation, third parties, the panel stage, the appellate stage, and implementation. The positive aspect is that these problems are not everlasting, and they can be easily resolved with minor amendments. Again, comparing the WTO's dispute settlement mechanism with other contemporary international trade dispute resolution systems could be a great solution. By ensuring fair trade practices and effective implementation, the WTO's dispute settlement mechanism may emerge as the strongest peacemaker in international trade.

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