

# Dispute Settlement Mechanism of WTO: Challenges and Solutions

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**Abstract:** The Dispute Settlement Mechanism (DSM) of the World Trade Organisation (WTO) has been recognised as a fundamental element of the multilateral trading system, promoting the enforcement of trade regulations and enhancing predictability in international trade. Nevertheless, the mechanism has faced several structural and political obstacles in the last ten years that jeopardise its effectiveness and credibility. This paper provides a critical analysis of the development, operation, and current crisis of the WTO's DSM, placing particular emphasis on the standstill in the Appellate Body since 2019, which results from the United States' ongoing obstruction of judicial appointments. The paralysis at the appellate level has weakened the dispute resolution process and raised concerns about the rule-based framework governing international trade. The study investigates the inherent limitations of the DSM, including delays in adjudication, challenges with compliance, and power imbalances between developed and developing nations. It underscores how these challenges impede fair access to justice for smaller economies and impact the overall trustworthiness of the WTO. It engages with academic discussions and member-state proposals for reform, such as interim arrangements like the Multi-Party Interim Appeal Arbitration Arrangement (MPIA), procedural innovations, and broader institutional changes. While the WTO's Dispute Settlement Mechanism is still crucial for sustaining the global trade order, its present obstacles call for immediate reform. Without comprehensive and collaborative initiatives to restore and modernise the system, the future of multilateral trade governance may trend towards fragmentation and unilateralism, jeopardising years of progress in international economic law. This study contributes to the ongoing conversation by suggesting balanced and implementable reforms designed to safeguard the integrity and functionality of the DSM amidst a swiftly changing geopolitical landscape.

**Keywords:** international trade law; WTO dispute settlement body; dispute settlement mechanism; alternative dispute resolution; dispute settlement understanding

## 1. Introduction

International trade is more complex than domestic trade due to various national legal frameworks, regulations, and policies. With more than 200 nations exchanging diverse goods and services, the World Trade Organization (WTO) is a global body that oversees the rules and regulations governing trade among countries. The WTO's main objective is to encourage trade liberalization between nations. One viewpoint notes, "*We aim to anchor these nations in the principle of freedom, which includes economic and political dimensions. Therefore, our commitment to free trade is not merely for the advantage of [a specific nation], but for improving humanity.*" The WTO's Understanding on Rules and Procedures Governing the Settlement of Disputes outlines a unique system for resolving conflicts among its member states, distinguishing it from standard international agreements. Discussions about the role of legal standards and judicial systems in global matters hold particular significance in economic interactions. Unlike traditional international law, international economic law is grounded not in state sovereignty but in the idea of reciprocal economic reliance. It is also frequently noted that while domestic elements influence politics, economic dynamics function worldwide (Gandhi 2025).

As the leading global organization regulating trade rules among its members, the WTO strives to promote seamless, predictable, and increasingly accessible international trade. The power of the WTO stems from an extensive array of agreements negotiated and ratified by its member countries, with these agreements and follow-up discussions requiring endorsement from their respective national legislatures. Resolving trade disputes has always been a significant issue for the international community, and the creation of the WTO established a framework to handle these challenges. Nevertheless, the effectiveness of the WTO's Dispute Settlement System has come under increasing

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scrutiny, leading to significant implications for member countries, particularly those considered developing nations (Ayush 2021). The procedural framework of the WTO serves as a tool for resolving trade disputes as detailed in the Dispute Settlement Understanding (DSU). A dispute occurs when one member country suspects another of breaching a WTO agreement. It is essential to understand that these agreements result from negotiations among member nations, which means they are responsible for creating these rules. When a dispute arises, the member governments are accountable for resolving it through the Dispute Settlement Body (DSB). This system has made significant strides in providing critical elements of security and predictability that traders and market participants depend on, as outlined in Article 3 of the DSU. The WTO's DSU was designed to rectify the shortcomings of the dispute resolution processes previously utilized under the General Agreement on Tariffs and Trade (GATT). Under GATT, the dispute resolution mechanisms were often slow and ineffective, as any member, including those facing allegations, could hinder or delay each stage of the process. While nations' long-term commitment to the new WTO dispute settlement framework is still in progress, the system has already demonstrated some effectiveness.

The WTO's DSU was created to improve the less efficient mechanisms GATT had previously used to resolve member-state conflicts. Under GATT, the methods for addressing disputes were frequently sluggish and unproductive, as any member state, including the one against which a complaint was lodged, could easily obstruct or delay any phase of the process. The long-term dedication of nations to the new WTO dispute resolution system remains to be determined, but initial outcomes have shown some favourable results. In the 1980s, various emerging interest groups were attracted to GATT's procedures, viewing them as a possible means to attain their objectives. The effectiveness of the dispute resolution methods and their contribution to enhancing adherence to treaty obligations encouraged the service and intellectual property sectors to seek multilateral agreements during the Uruguay Round negotiations of the GATT. The DSU was explicitly designed to tackle the issue of diminishing and eliminating non-tariff trade barriers. A non-tariff trade barrier can refer to almost any governmental action or regulation that complicates or increases the costs for foreign competitors attempting to operate within a country. In the early years of GATT, advancements in lowering trade barriers focused primarily on goods and reducing or eliminating tariffs on these products. More recently, many tariffs have been removed across various industries. As a result, non-tariff trade barriers have gained more prominence because, without tariffs, they are the primary elements that considerably distort the overall trade liberalization framework. These non-tariff trade barriers often emerge unintentionally from well-meaning regulatory measures to ensure safety, environmental protection, or other public policy goals. However, there are instances where countries have been suspected of intentionally instituting these regulations under the guise of legitimate regulatory purposes, thus protecting domestic industries from fair international competition and undermining the principles of the global free-trade system.

## 2. History and Background

WTO operates globally as an international institution that establishes guidelines and principles for trade between nations. Member countries must enact and manage trade policies according to established norms and standards. Established as a successor to the General Agreement on Tariffs and Trade (GATT), the WTO was initially created to reshape and revitalize the global economy after World War II. Although its early approach involved diplomatic negotiations through working groups, the organization has progressively shifted to a system of rule-based decisions made by independent panels as its primary operational method (Padhi 2023).

Founded in 1995, WTO aims to promote fair and transparent international trade practices. Its primary goal is to establish a balanced environment for global trade by minimizing trade barriers and offering a platform for negotiating new trade agreements. With 164 member countries, the WTO represents over 98% of the worldwide trade volume. The organization functions based on principles that enhance international trade stability, predictability, and transparency. These rules address a broad spectrum of trade-related issues, such as tariffs, subsidies, intellectual property rights, and the exchange of services. The WTO's Dispute Settlement Mechanism (DSM) is vital in helping member nations resolve trade disputes. The DSM is a binding legal framework that offers an impartial and fair approach to settling disagreements between member states. It operates on the premise that disputes should be resolved through negotiation and consultation, aiming for a mutually acceptable solution that complies with WTO regulations. The DSM involves several stages: consultation, mediation, panel proceedings, and appellate processes. Decisions made by the panels and the Appellate Body are compulsory for the parties involved, and the entire process may take several months to finalize (Nair 2023). Nonetheless, the DSM of the WTO encounters various challenges that jeopardize its credibility and efficiency. One major issue is the rising backlog of cases. The DSM possesses limited resources to manage the growing number of disputes it faces. As a result, resolving conflicts is increasingly prolonged, leading to delays and uncertainties for all parties involved. This situation can undermine the WTO's aim of encouraging multilateral trade, as it fosters a lack of trust in the system and may drive nations to take unilateral actions. Another challenge is the difficulty in enforcing the decisions made by the panels and the Appellate Body. Although these decisions are definitive and enforceable, there is no automatic enforcement mechanism, which can result in scenarios where parties ignore rulings or respond with retaliatory measures, potentially heightening trade tensions.

The foundation for the current Dispute Settlement system was established during the Uruguay Round. However, even before that, GATT in 1947 had established a dispute settlement mechanism that had developed over fifty years. At first, Article XXIII (2) of GATT 1947 required that parties in dispute should make an initial effort to resolve their issues collaboratively. If they could not find a resolution, the matter referred to representatives from interested contracting parties and those involved in the dispute, forming working parties. Decisions were reached by consensus. A crucial change occurred by introducing a panel system comprising 3 to 5 impartial third parties without prior engagement in the dispute. These panels provided recommendations and rulings through independently crafted reports. Once generated, these reports were submitted to the GATT Council, which determined the legitimacy of the settlement. Once approved, the reports became obligatory for the parties involved in the dispute.

Given this development, it is reasonable to question what contributed to the weakening of GATT's dispute settlement mechanism and whether inherent flaws persisted over time. While the Uruguay Round set the stage for the WTO's Dispute Settlement System, an important aspect retained from GATT 1947 was the requirement for "positive consensus" for specific crucial steps. For example, moving a dispute to a panel required a positive consensus, meaning no contracting party could object. This requirement

applies to every phase, including approving reports and implementing countermeasures against non-compliant parties. A distinctive feature was that parties not directly implicated in the dispute were allowed to participate in the decision-making process. This created a situation where, in certain instances, the respondent might be able to obstruct the consensus. The critical question is, wouldn't they be inclined to block the consensus if the respondent predicted an unfavorable ruling? Interestingly, the power of veto was not often exercised previously, possibly due to apprehensions about long-term relationships. As a result, most reports were accepted. Nonetheless, this trend only applied to disputes formally presented before the GATT Panel. Numerous disputes were never brought forward because of a lack of confidence in the panel system and its reports, where the potential for the respondent's veto power diminished the effectiveness of the dispute settlement system. The panel's recognition that a diplomatic resolution was frequently more feasible than a ruling favoring one party, given the respondent's veto capability, fundamentally weakened the GATT Dispute Settlement System (Madhumitha 2020).

## 2.1 Tokyo Codes

The Tokyo Round of global trade talks led to various plurilateral agreements, which introduced the Tokyo Codes. These codes outlined dispute resolution processes binding only to the nations that signed them. Generally, countries that engaged in both the Tokyo Round agreements and the GATT 1947 framework could opt for 'forum shopping, enabling them to select the dispute resolution system that seemed most beneficial. Within the GATT 1947 context, this often worked to the advantage of the respondent, as they could obstruct the acceptance of a report, resulting in numerous disputes being resolved in their favour.

## 2.2 The Uruguay Round 1989

The 1980s encountered several trade-related obstacles, primarily because the GATT 1947 Dispute Settlement mechanism did not effectively benefit trade and commerce in developing and underdeveloped countries. Many trading nations acknowledged the necessity for structural and administrative improvements. The Uruguay Round, which took place from 1986 to 1994, sought to address these issues by establishing procedural stages for managing disputes. It introduced specific timelines for resolving cases, along with adjustable deadlines that could be modified depending on the circumstances of each case. Timely resolution was considered essential for effective dispute settlement and the smooth operation of the WTO. Generally, the deadline for an initial decision is one year, with an additional three months available for appeals, leading to a total of fifteen months. In urgent situations requiring quick resolution, these flexible timelines could be changed into fixed dates to speed up the process. Additionally, the Uruguay Round removed the option for a losing nation to obstruct the unilateral adoption of a ruling. In the past, under GATT, a single objection could halt the adoption of a verdict, resulting in numerous unresolved disputes that adversely affected trade and commerce. The updated system permitted a losing country to delay a verdict only if it could convince other members to achieve a majority consensus against its adoption. The first step in the dispute settlement procedure involves discussions with the governments involved to address their concerns (Parveen 2015).

## 3. Dispute Settlement System of the WTO

Resolving disputes is fundamental to the multilateral trading system and an essential way the WTO plays a role in stabilizing the global economy. This mechanism is emphasized as a primary objective of the WTO in the Understanding on Rules and Procedures Governing the Settlement of Disputes, a key agreement linked to the Second Annexure of the Uruguay Round Conference that established the organization. This document specifies the regulations, the entities involved, and their associated authority and responsibilities. Article 3 of this agreement elaborates on the goals of an effective dispute resolution process. Member states acknowledge this procedure as crucial for upholding their rights and obligations under the relevant contracts and interpreting the existing provisions of those agreements based on standard public international law practices. The suggestions and decisions made by the Dispute Settlement Body (DSB) are not meant to enhance or diminish the rights and obligations specified in the covered agreements. Instead, the dispute resolution process is aimed at protecting the entitlements of member states that arise from trade agreements, which the actions of other member states could jeopardize (Sehgal 2020).

The whole procedure relies on the voluntary acceptance of the Dispute Settlement Body's authority by member nations and the organized resolution of disputes, initially focusing on reaching a mutual agreement. Should this attempt fail, the impacted member nation has the right to suspend concessions or specific rights granted to the defending party. A timeline has been set for the prompt resolution of disputes, with Article 4 specifically addressing perishable goods, stressing the urgency of related disputes. A panel will be established if consultations do not resolve satisfactorily within 60 days. This panel will include three members, chosen based on suggestions from member countries, with expertise in international trade law and other specific areas covered by the applicable agreements. Member countries may put forward their representatives or officials as candidates for panelists. The following provision clarifies that panelists will act independently, without any government attachments or representation from any organization. Therefore, members are forbidden from giving directives or attempting to influence them personally regarding matters under consideration by a panel. The panel's primary role is to conduct an impartial review of the issues, including objectively evaluating the factual situation and the relevance and compliance with the applicable covered agreements.

The Appellate Body of the World Trade Organization's DSB is an authoritative body comprising seven members. Its purpose is to hear appeals only for cases previously decided by a panel. A quorum of three Appellate Body members is necessary for each case. The seven members serve on a rotating basis, with initial terms lasting four years, which can be renewed once. This rotation specifically pertains to three of the seven appointees named immediately after the implementation of the WTO agreement, whose terms will end after two years, as determined by a random selection. Should a member position become vacant, the Dispute Settlement Body, which includes all WTO Members, must swiftly appoint a new member through consultation and consensus to ensure the Appellate Body functions smoothly. If a new member is appointed to take over a position whose term is incomplete, the new appointee will serve for the remaining term. Those appointed to this body will have expertise in international trade, related legal frameworks, and the subject matter of the covered agreements. These individuals must remain independent of any member nation. It is important to note that any appeal is restricted to legal issues raised in the panel report and legal interpretations made by the panel. This limitation constrains the scope of review and inquiry. The authority granted to the Appellate Body signifies that its report

is to be accepted without question by the disputing parties, unless the Dispute Settlement Body decides by consensus not to adopt the Appellate Body report within 30 days of its distribution to the Members; such a meeting of the Dispute Settlement Body may occur during a scheduled session or require a specially convened meeting, underlining the importance of the Appellate Body. The Appellate Body's procedural framework is self-regulated. It can consult with the DSB Chairman and the WTO Director-General, followed by communication with the Members to increase their awareness.

### 3.1 Phases in Addressing Trade Disputes

#### *Phase 1: Initial Consultations*

Before engaging in mediation or other measures, WTO member states must try to resolve their disputes through initial consultations. Suppose a WTO member seeks consultations with another member concerning actions impacting the former's trade activities. In that case, the latter must acknowledge the request within ten days and initiate consultations within thirty days. Should these discussions not lead to a satisfactory resolution within sixty days of the request, the complaining party may proceed to request the creation of a panel. The complaining member must formally notify the DSB in writing, detailing the reasons for the consultation and panel formation requests.<sup>1</sup>

#### *Phase 2: Establishment of Panels*

Suppose member nations fail to resolve the issue through consultations. In that case, the complaining member can submit a written request to the DSB to establish a panel and a summary of the case and the pertinent issues. The panel is typically formed at the second DSB meeting after the request is added to the agenda. Its role is to aid the DSB in resolving the dispute, examining the entire case, including the factual context and concerns raised, and determining its alignment with relevant agreements between the member states. The panel must deliver its final report to the parties involved within six months of initiating the panel process.<sup>2</sup>

#### *Phase 3: Selecting Panelists*

Following the establishment of a panel, the next step is selecting panelists, a process coordinated by the WTO Secretariat. The parties involved cannot raise objections to the selections unless they present justifiable reasons accepted by the Secretariat. Usually, the panel is composed of three panelists. However, if the parties mutually agree, they can extend the panel to five panelists within ten days of its establishment. The WTO Secretariat supports this selection process by maintaining a roster of qualified candidates from governmental and non-governmental sectors, from which the parties can choose panelists. Member states can suggest new additions to this roster at any reasonable time by recommending individuals with appropriate expertise in international trade law or related fields relevant to the dispute, subject to prior approval by the DSB. Suppose panelists are not appointed within twenty days of the panel's formation. In that case, the Director-General will select individuals they consider suitable in consultation with the Chair of the relevant Council or Committee. The Chair of the DSB will then notify the members of the panel's composition within ten days.

#### *Phase 4: Panel Procedure*

The panel members must create a schedule for their proceedings within one week of being formed. The panel will then determine deadlines for each party to submit their written statements. Each party is responsible for filing their submissions with the secretariat, which will then distribute them to the panel and ensure that both parties receive each other's submissions. During the initial substantive meeting, the complaining party will present its case before the respondent can present. Third parties that have formally notified the Dispute Settlement Body of their significant interest in the matter will be invited to share their perspectives during this meeting. Any rebuttals from the parties will occur in a subsequent meeting, where the respondent will first address the claims made by the complainant. Before this meeting, both parties must provide their written rebuttals to the panel. If necessary, the panel may ask for clarification from the parties during this engagement. When a resolution is achieved after the examination, the panel must provide a written report to the Dispute Settlement Body outlining the case and the resolution reached. On the other hand, if no resolution is arrived at, the panel will produce a written report for the Dispute Settlement Body detailing its findings and any recommendations it may have. This report must be submitted within six months of the examination. The report must be delivered within three months in urgent situations, particularly those involving perishable goods. The most extended period allowed for report submission is nine months from the panel's establishment.<sup>3</sup>

#### *Phase 5: Interim Report*

After presenting oral arguments, following the rebuttal, and conducting a thorough review, the panel must prepare a preliminary report for the parties involved. The parties must provide their written feedback on the draft report within the timeline established by the panel. Once the deadline for comments has passed, the panel will release an interim report that includes its findings from the draft and any additional findings and conclusions. Within a specified timeframe, either party may formally request the panel to reconsider its interim report if needed. In response to such requests, the panel will hold another meeting to discuss the observations submitted by the disputing parties. If both parties find the resolution satisfactory, the updated interim report will be the final panel report and disseminated among the members. However, if either party is dissatisfied with the report's conclusions, any objections from the members will be addressed during a meeting of the Dispute Settlement Body. Such objections must be formally communicated at least ten days before the DSB meeting. The final report is expected to be adopted by the Dispute Settlement Body within sixty days after it is shared with the members, unless a disputing party officially signals its intention to appeal to the DSB, or if the

<sup>1</sup> WTO Dispute Settlement Understanding, 1994, Article 4

<sup>2</sup> WTO Dispute Settlement Understanding, 1994, Articles 6, 8 & 11

<sup>3</sup> WTO Dispute Settlement Understanding, 1994, Articles 10 & 12

DSB unanimously decides against adopting the report. In the case of an appeal, the report will not be adopted by the DSB until the Standing Appellate Body has issued its Appellate Body Report.<sup>4</sup>

#### **Phase 6: Appeal**

Any party unhappy with the decision made in the panel report is entitled to appeal to the Standing Appellate Body set up by the Dispute Settlement Body. Only the parties directly involved in the dispute can appeal to the panel report; third parties do not have this ability. Third parties can engage in the appellate process only if they have officially informed the Dispute Settlement Body of their significant interest in the dispute. The proceedings of the Appellate Body must be completed within a maximum of 60 days from the time a party involved in the disagreement expresses its intention to appeal to the DSB. If there are delays, the Appellate Body can extend this period by a maximum of 90 days. The Appellate Body must give written notification about the timeframe in which the final decision will be made. It is not allowed to reassess any evidence, matters, or previous arguments; its review is confined to the legal principles outlined in the panel report and the panelists' legal interpretations. The Appellate Body has the authority to uphold, amend, or overturn the panel report and to provide final determinations.<sup>5</sup>

#### **Phase 7: Adoption of Report by Dispute Settlement Body**

The Dispute Settlement Body is required to either adopt or reject the Appellate Body Report within 30 days of its receipt. The report can only be dismissed with a unanimous agreement.<sup>6</sup>

### **3.2 WTO Appellate Body Stalemate: Causes and Implications**

The Appellate Body is a fundamental component of the Dispute Settlement System (DSS) within the World Trade Organization (WTO), functioning as the ultimate court of appeal for trade disagreements under its purview. Ideally, the body is comprised of seven members, including a chairperson. However, a significant challenge emerged on December 11, 2019, when the four-year terms of two of the last three members ended. As a result, the Appellate Body has been unable to establish the required quorum of three members to hear appeals. This circumstance has effectively halted the operations of the Appellate Body and severely undermined the WTO's DSS.

It is crucial to recognize that this situation did not arise overnight. The United States has played a pivotal role in creating the current condition of the Appellate Body. For an extended period, the U.S. has expressed concerns regarding several aspects of the appellate process, such as prolonged delays and the validity of appellate review standards. Notably, it has accused the Appellate Body of overstepping its original authority by issuing decisions that either broaden or restrict the rights and obligations of member countries, which constitutes judicial overreach. Washington's approach to demonstrate its discontent involved using its veto power to prevent the appointment of new members, gradually diminishing the body's size.

The United States was not the only nation to doubt the effectiveness of the Appellate Body's operations. However, other member states chose not to take the drastic step of blocking member appointments. Instead, they suggested reforms to enhance the appellate review process and address ongoing concerns related to the Appellate Body. Nonetheless, the dysfunction of the Appellate Body does not benefit most member states. The WTO's dispute settlement system (DSS) is the most frequently utilized international adjudication mechanism, having processed nearly one hundred complaints since its inception in 1995. The DSS consists of three distinct phases: the initial consultation phase, the subsequent adjudication phase (which includes both panel proceedings and Appellate Body processes), and the final implementation phase (which may involve countermeasures). The Appellate Body, created under Article 17 of the WTO's Dispute Settlement Understanding, is critical in the adjudicative process, reviewing appeals from panel decisions. Approximately 67% of panel reports appealed to the Appellate Body for a definitive resolution. Until the vacancies within the Appellate Body are filled and it resumes operations, ongoing trade disputes will likely remain unresolved indefinitely (Chouhan 2021).

If the ongoing crisis is not resolved and its impact worsens, various global trade changes could occur. Some countries, including the United States, may begin favoring bilateral trade agreements with partners like Mexico, Canada, and China, rather than relying on multilateral agreements. Nations looking for quick solutions might opt for bilateral deals outside the framework of the WTO. Furthermore, there could be a heightened emphasis on regional or multi-regional trade blocs such as OBOR, SCO, and ASEAN. This shift may not bode well for the future of the WTO, potentially resulting in its decline and reducing the chances for a free, fair, and transparent global multilateral trading system. Substantial reforms are necessary to resolve the current deadlock in the WTO's Dispute Settlement System (DSS). Addressing the United States' concerns is essential to resolving the stalemate in the selection process for WTO members. Additionally, there has been a suggestion to create an annual compliance committee to evaluate the operations of the Appellate Body. This committee, made up of the leaders of all central WTO committees, would be tasked with assessing the performance of the Appellate Body and recommending corrective measures if needed. Ultimately, safeguarding the WTO's DSS is crucial for maintaining the principles of a free, fair, and transparent multilateral trading system.

## **4. Benefits of the WTO's Dispute Resolution System**

### **Enhancing Stability and Predictability in Global Commerce**

A key strength of the WTO's Dispute Settlement Mechanism lies in its contribution to a more stable and predictable international trading environment. Providing a structured and reliable process for resolving trade disagreements fosters consistent and dependable commercial interactions among member nations. This, in turn, supports equitable competition and helps to prevent the rise of protectionism and trade conflicts.

<sup>4</sup> WTO Dispute Settlement Understanding, 1994, Article 15

<sup>5</sup> WTO Dispute Settlement Understanding, 1994, Article 17

<sup>6</sup> WTO Dispute Settlement Understanding, 1994, Article 30

### ***Upholding the Principles of Law***

Operating on established rules, the WTO's Dispute Settlement Mechanism is crucial in maintaining the rule of law within international trade. It ensures that legal principles, rather than political influences, guide the resolution of commercial disputes. This leads to fairer and more impartial outcomes in trade conflicts, essential for cultivating a trustworthy and predictable global trading system.

### ***Offering a Voice to Smaller Economies***

The WTO's Dispute Settlement Mechanism provides a crucial platform for smaller nations to articulate their concerns and seek remedies from more influential trading partners. This promotes greater equity in international trade and contributes to a more level playing field. Smaller countries might lack the necessary resources or expertise to effectively address trade disputes without the WTO's Dispute Settlement Mechanism.

### ***Promoting Adherence to WTO Regulations***

By providing a means of enforcing WTO rules, the Dispute Settlement Mechanism encourages member nations to comply with their obligations. This discourages unfair trade practices and facilitates a greater commitment to the established framework. By fostering adherence to WTO regulations, the Dispute Settlement Mechanism contributes to a more stable and predictable global trade system.

### ***Facilitating Efficient Conflict Resolution***

The WTO's Dispute Settlement Mechanism is designed to resolve disputes effectively, which can prevent trade disagreements from escalating into significant trade wars. Compared to other international methods of conflict resolution, the average time for a dispute to be settled is approximately three years. This helps to limit the duration of conflicts and minimize potential long-term damage to the global trading system.

### ***Improving Transparency in the Global Trading System***

The requirement for open and transparent resolution of disputes within the Dispute Settlement Mechanism enhances overall transparency within the international trading framework.

## **5. Obstacles Facing the Dispute Resolution System**

A primary difficulty currently impacting the WTO's dispute resolution system is the inoperative state of its Appellate Body since 2019. This deadlock, resulting from the inability to appoint new members, has rendered the appeal stage unusable, leaving numerous disputes unresolved at a crucial point. The persistent delays in establishing panels and the extended timeframes for resolving disputes further worsen the system's inefficiencies. Unresolved disputes carry the danger of escalating into trade conflicts, potentially destabilizing the global economy. For example, trade disagreements among prominent economic actors, such as the United States, China, and the European Union, often arise from differences in legislation and attempts to safeguard national interests. These trade issues underscore the inherent weaknesses of the current dispute settlement system, emphasizing the urgency for prompt and practical solutions. Social inequality also poses a considerable challenge within the WTO structure. Less developed countries often encounter disadvantages in argumentation during disputes, while economically more powerful nations possess greater leverage and resources to achieve favorable results. The intangible influence of social power further complicates the resolution process, necessitating reforms to guarantee fair treatment for all member nations. Despite these difficulties, the WTO's established rules offer a structured, step-by-step method for dispute resolution, as seen in Antigua and Barbuda's successful challenge against the United States regarding online gambling. This instance demonstrates the potential of the WTO's legal framework to achieve justice, even for smaller nations, provided the rules are applied without bias.

## **6. India's Stance on WTO Dispute Settlement: A Historical and Contemporary Perspective**

As a charter member of the General Agreement on Tariffs and Trade (GATT) and its successor, the World Trade Organization (WTO), India's journey within the global trading system has been marked by a nuanced engagement, particularly concerning the interests of developing nations. During the formative discussions under the GATT, Indian leaders often emerged as vocal advocates for issues critical to the less developed world. This proactive stance extended into subsequent rounds of Multilateral Trade Negotiations (MTNS), where India frequently spearheaded coalitions of least-developed countries, leveraging the backing afforded by the GATT framework. India's participation in these global economic dialogues underscores a prevailing ambivalence, shared by many developing nations, regarding the true significance of trade and the global trading architecture in the pursuit of national development. This historical backdrop provides crucial context for understanding why India, alongside its developing counterparts, exhibited a degree of circumspection towards deep international economic integration for a considerable period. The lingering effects of the colonial era, often cited as a reason for India's initial skepticism towards the global economy, represent merely one thread in this complex historical tapestry.

The initial reactions were largely critical of India's ratification of the WTO Agreement 1994. Numerous commentators voiced concerns that WTO membership could potentially erode India's sovereignty and exacerbate existing economic vulnerabilities. This apprehension appeared to be a natural consequence of the financial and trade policies India had historically pursued. For much of its post-independence era, India had adopted a protectionist approach to industrialization, characterized by substantial tariffs, import licensing, and quantitative restrictions. At the onset of its significant economic reforms in 1991, India's average effective import tariff stood at approximately 81%. Furthermore, for nearly four decades, beginning in the mid-1950s, India maintained quantitative restrictions on various food items, primarily citing balance of payments considerations. In addition, India's foreign trade sector remained relatively underdeveloped and at exceptionally low levels during the mid-1990s, the very period of its accession to the WTO.

India's involvement in the General Agreement on Tariffs and Trade (GATT) decision-making processes remains under-documented in existing scholarly literature. Nevertheless, mirroring the experience of many other developing nations, India did not demonstrate particularly enthusiastic engagement with the various methodologies employed by GATT. Its role within the GATT dispute resolution framework was largely peripheral. Throughout the history of GATT, India was a party to only a limited number of disputes. Consequently, India's initial response to the Uruguay Round of Trade Negotiations (1986-1994) was a lack of enthusiasm. India was initially hesitant to participate in this new trade round. It strongly objected to including services, intellectual property, and trade-related investment measures within the GATT agenda. Throughout this period, India faced persistent criticism for what was often perceived as an "obstructionist" stance. A prevalent critique against India during the Uruguay Round was the assertion that its engagement in the process could potentially "throw the negotiation process into disarray." During this crucial juncture, India's share of global international trade was exceedingly small, and the nation also encountered considerable difficulties in convincing its domestic stakeholders of the potential benefits of participating in these new multilateral trade negotiations.

India's active participation in the World Trade Organization (WTO) dispute settlement process commenced with a complaint against the United States concerning a transitional safeguard measure imposed on specific textile and clothing items, namely woven wool shirts and blouses. The WTO panel and the Appellate Body ultimately decided in favor of India. This dispute is notably significant for clarifying the 'burden of proof' principle within the context of WTO dispute resolution. However, it was not until the assertive actions undertaken by the United States, followed by the European Community, regarding India's proposed implementation of the "mailbox" system under the Trade-Related Aspects of Intellectual Property Rights (TRIPS) Agreement that the broader Indian public began to grasp the far-reaching implications of India's commitments to the WTO. India's successful pursuit of the prior case before the panel and the Appellate Body, which upheld India's position, ironically coincided with growing public dissent and criticism regarding India's initial decision to accede to the WTO. A year later, the WTO panel and Appellate Body's ruling against India's quantitative restrictions on a wide range of industrial and consumer goods incited considerable apprehension and trepidation, leading to widespread concerns that the WTO could potentially dictate India's future economic policy. Over time, however, this landscape has dramatically shifted, with India now emerging as one of the most prominent users of the WTO dispute settlement system among developing economies, alongside Brazil and Mexico. As of the end of May 2017, out of a total of 576 disputes adjudicated by the dispute settlement panels, India had been involved in 24 disputes as a complainant and 25 as a respondent, in addition to actively participating as a third party in approximately 133 other disputes, highlighting its evolving and increasingly assertive role within the WTO's legal framework.

## 7. Conclusions

The Dispute Settlement Mechanism (DSM) of the World Trade Organization plays a crucial role in international trade law by fostering legal certainty, equity, and the peaceful resolution of trade disputes between member nations. However, existing challenges—particularly the deadlock surrounding the Appellate Body, have revealed notable weaknesses in the system, jeopardizing its core objective of ensuring binding, impartial, and timely dispute resolution. These problems, stemming from political stalemates and institutional constraints, have diminished the DSM's credibility and accessibility, especially for developing and least-developed countries that rely heavily on its protections. This analysis highlights the pressing need for reforms to tackle these issues through institutional changes and cooperative diplomatic efforts. Necessary and legitimate measures include reviving the Appellate Body, introducing procedural enhancements to improve efficiency and fairness, and bolstering legal support systems for economically disadvantaged nations. Moreover, investigating alternative dispute resolution methods and temporary measures like the MPIA illustrates the system's ability to adapt despite institutional challenges. Ultimately, the future of the WTO's DSM hinges on the collective political commitment of its members to uphold a rules-based international trading system. A revamped and fortified dispute resolution framework would restore faith in the WTO and promote a more inclusive, fair, and sustainable global trading landscape. The insights and recommendations presented in this paper seek to enrich ongoing discussions and policy initiatives aimed at rejuvenating the DSM and maintaining its position as a protector of international trade law in an increasingly divided world.

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