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Legal Challenges and Developments in the WTO Dispute Resolution Mechanism

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ABSTRACT

The WTO dispute settlement mechanism plays a critical role in maintaining the stability and fairness of international trade law, offering member states a structured process for resolving trade conflicts. Its relevance is underscored by its capacity to enforce multilateral agreements and ensure compliance with trade obligations, thereby protecting the interests of both developed and developing nations. However, significant challenges, such as procedural delays and the lack of interim economic protections for claimants, reveal the mechanism's limitations, especially for economically weaker states. This study focuses on the legal aspects of the WTO dispute settlement system, particularly its effectiveness in addressing disputes and safeguarding the rights of member states. The research emphasizes the weaknesses in compensation mechanisms and procedural fairness, while also evaluating the role of the Appellate Body and its recent paralysis as critical challenges to the system's functionality. The study employs a qualitative analysis of WTO agreements, case studies, and statistical data to examine the practical implications of the dispute settlement mechanism's limitations. By evaluating specific cases such as DS530 (Ukraine v. Kazakhstan) and DS611 (EU v. China), the research highlights the legal complexities and procedural shortcomings that affect equitable dispute resolution. The findings reveal the urgent need for reforms, including the introduction of interim relief measures, improved compensation mechanisms, and enhanced representation for developing countries. Recommendations also address the optimization of Appellate Body functionality and adapting the WTO legal framework to emerging trade challenges, such as digital commerce and sustainability. These reforms are essential for ensuring the continued relevance and equity of the WTO dispute settlement mechanism in a rapidly evolving global trade environment.

Keywords: International trade activity, World market, Republic of Kazakhstan, European Union, Legal regulation, Protection of national interests

ABSTRAK

Mekanisme penyelesaian sengketa WTO memainkan peran penting dalam menjaga stabilitas dan keadilan hukum perdagangan internasional, menawarkan negara-negara anggota suatu proses terstruktur untuk menyelesaikan konflik perdagangan. Relevansinya ditegaskan oleh kapasitasnya untuk menegakkan perjanjian multilateral dan memastikan kepatuhan terhadap kewajiban perdagangan, dengan demikian melindungi kepentingan negara-negara maju dan berkembang. Namun, tantangan yang signifikan, seperti penundaan prosedural dan kurangnya perlindungan ekonomi sementara bagi penggugat, mengungkap keterbatasan mekanisme tersebut, terutama bagi negara-negara yang secara ekonomi lebih lemah. Studi ini berfokus pada aspek hukum sistem penyelesaian sengketa WTO, khususnya efektivitasnya dalam menangani sengketa dan melindungi hak-hak negara-negara anggota. Penelitian ini menekankan kelemahan dalam mekanisme kompensasi dan keadilan prosedural, sementara juga mengevaluasi peran Badan Banding dan kelumpuhannya baru-baru ini sebagai tantangan kritis terhadap fungsionalitas sistem. Studi ini menggunakan analisis kualitatif perjanjian WTO, studi kasus, dan data statistik untuk memeriksa implikasi praktis dari keterbatasan mekanisme penyelesaian sengketa. Dengan mengevaluasi kasus-

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kasus tertentu seperti DS530 (Ukraina v. Kazakhstan) dan DS611 (UE v. Tiongkok), penelitian ini menyoroti kompleksitas hukum dan kekurangan prosedural yang memengaruhi penyelesaian sengketa yang adil. Temuan-temuan tersebut mengungkapkan kebutuhan mendesak akan reformasi, termasuk pengenalan langkah-langkah bantuan sementara, mekanisme kompensasi yang lebih baik, dan peningkatan representasi bagi negara-negara berkembang. Rekomendasi juga membahas optimalisasi fungsi Badan Banding dan mengadaptasi kerangka hukum WTO terhadap tantangan perdagangan yang muncul, seperti perdagangan digital dan keberlanjutan. Reformasi ini penting untuk memastikan relevansi dan keadilan mekanisme penyelesaian sengketa WTO yang berkelanjutan dalam lingkungan perdagangan global yang berkembang pesat.

Kata kunci: Aktivitas perdagangan internasional, Pasar dunia, Republik Kazakhstan, Uni Eropa, Regulasi hukum, Perlindungan kepentingan nasional

INTRODUCTION

The World Trade Organization (WTO), formally established in 1995, represents a cornerstone of contemporary international trade. However, its roots extend back to the mid-20th century, originating with the General Agreement on Tariffs and Trade (GATT), which laid the groundwork for global trade governance. The GATT, finalized in 1947 and updated in 1994, provided an initial framework for regulating international commerce, ensuring predictability, transparency, and fairness in trade relations. The WTO expanded upon this foundation by incorporating trade in goods, services, and intellectual property, thereby addressing the evolving complexities of global markets (Bannerman, 2020; Yessenbekova, 2024). By 2022, the WTO had grown to encompass 164 member states, representing approximately 85% of the world's nations (World Trade Organization, 2022). This near-universal membership underscores the organisation's critical role in fostering economic cooperation and reducing trade barriers, which are vital for sustainable global development.

Central to the WTO's mission is its dispute settlement mechanism, a unique legal framework that provides binding resolutions to trade conflicts. In international trade, disputes frequently arise over the interpretation or implementation of agreements, posing risks to economic stability and cooperation (Abdrasulov et al., 2015). The Dispute Settlement Understanding (DSU), established during the Uruguay Round of multilateral trade negotiations, serves as the backbone of this mechanism. It ensures that trade disagreements are resolved not through unilateral action or national courts but through a multilateral system that prioritizes equity and legal certainty (World Trade Organization, 2022). The DSU's processes, which include consultations, panel adjudication, and the Appellate Body review, provide a structured approach to resolving disputes while maintaining the delicate balance of power among nations with varying levels of economic development (Matsumura, 2018). The effectiveness of the WTO's dispute settlement system is crucial for maintaining balanced international trade relations. Without such a mechanism, the enforcement of trade agreements would be undermined, potentially leading to retaliatory measures and escalating conflicts. This is particularly significant in disputes involving economically disparate nations, where the legal framework levels the playing field and mitigates the risk of exploitation by more dominant trading partners (Grant and Yaffe, 2020). Timely and fair resolutions not only preserve the financial interests of the parties involved but also prevent disputes from escalating into broader economic confrontations or trade wars. Consequently, the DSU's design reflects an effort to institutionalize stability and predictability in global trade (Musayeva et al., 2024).

A growing body of literature has explored the WTO's dispute resolution processes, shedding light on their legal, procedural, and practical dimensions. Shchokina et al. (2019) delve into theoretical, methodological, and practical aspects of dispute resolution, emphasizing the need for tools that align with

modern trade dynamics. Their analysis highlights the Ukrainian experience, offering insights into how national interests can be safeguarded within the WTO framework. Similarly, Tleubekov et al. (2022) examine the factors contributing to disputes in international trade agreements, with a particular focus on Kazakhstan's participation as a third party in dispute resolution. Their findings underscore the importance of cooperative engagement among WTO members to address systemic challenges. Further, Ezzat and Zaki (2022) explore the interplay between institutional quality and trade agreement membership, revealing that discrepancies in institutional standards among trading partners reduce the likelihood of successful agreements. This underscores the importance of aligning domestic legal systems with WTO norms to minimize conflicts. Hartigan and McMahon (2022) focus on risk management within the WTO framework, analyzing how member states interpret and implement dispute resolution provisions. Their research highlights the intricacies of managing legal ambiguities and ensuring compliance with international obligations. Despite these advancements, scholars like Grübler and Reiter (2021) and Hu et al. (2022) emphasize that the WTO's dispute resolution mechanism must continuously adapt to contemporary legal and economic challenges, including emerging issues such as digital trade and environmental sustainability.

At the core of the WTO's legal mechanism is the DSU, which defines procedural stages for resolving disputes (Mayis et al., 2021). These include mandatory consultations aimed at amicable resolution, the establishment of panels for formal adjudication, and recourse to the Appellate Body for appeals. The DSU's provisions ensure that rulings are legally binding and enforceable, distinguishing the WTO from other international organizations where dispute resolution often relies on non-binding arbitration. However, the system is not without its challenges. For instance, the Appellate Body has faced significant criticism, including allegations of judicial overreach and delays in issuing decisions (Breuss, 2022). These issues have prompted calls for reform to enhance the system's efficiency and credibility.

Therefore, the purpose of the paper is to analyse the legal instruments that are used in the dispute resolution procedure based on the functioning of the WTO, the role and place of states in solving problematic issues, and the justification of ways to improve the mechanism for eliminating trade misunderstandings.

RESEARCH METHOD

The information base of the study are statistical data, reports and regulations of the World Trade Organization (2022), in particular: WTO Annual Report (2022), General Agreement on Trade in Services (GATS) (1995), Trade-Related Aspects of Intellectual Property Rights (TRIPS) (1995), Uruguay Round Agreements (1995), DS530: Kazakhstan – Anti-dumping Measures on Steel Pipes (2017), DS611: China – Enforcement of intellectual property rights (2022), Dispute Settlement Activity – Some Figures (2021). The materials of the report of the European Commission on the subject WTO reform: EU proposes way forward on the functioning of the Appellate Body (2018) were also used. The study of the problematic aspects of the research subject consisted in the use of economic and macroeconomic laws, the basic principles of the system of international economic relations, and the papers of British, Canadian, Chinese, Australian, American, Korean, Ukrainian, Kazakh, Egyptian researchers in the field of research on the legal features of international trade on the WTO platform with a detailed description of the modern dispute resolution procedure with the implementation of the international trade agreements. Cognition methods were also applied, which are based on a systematic approach to solving problematic issues.

A set of general research methods was used to achieve the goal of the study, in particular. The method of generalisation – systematising the main scientific provisions, establishing the functioning features of the theoretical aspects of the implementation of international economic relations, including

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trade, by all members of the World Trade Organization. The method of analysis – the research of a number of disadvantages and advantages in the application of the legal dispute settlement mechanism; characterisation of obligations in the agreements of the participants of the organisation; definition of a clear structure and features of the development of the main provisions of the agreements. The method of analogies and comparisons – justification of the work of the World Trade Organization from 1995 to 2021 and the number of member states that took part in the settlement of disputes, which held different positions simultaneously; characteristics of the distribution of the fields of international trade agreements and their number, whose obligations were violated throughout the existence of the organisation; justification of the number of agreements for which the decisions of the arbitration court and the corresponding suspension of obligations, and the number of initiated disputes, created primary groups and reports of appeal over the past 10 years.

The synthesis method – justification of the advantages of involvement in the work of the organisation, the characteristics of the multilateral agreements of the Uruguay Round, and the rules contained in legal documents regulating international trade relations. Induction method – detailed research of individual cases – DS530: Kazakhstan – Anti-dumping Measures on Steel Pipes (2017) and DS611: China – Enforcement of intellectual property rights (2022); description of the stages of the legal procedure for resolving specific trade conflicts, indicating the main regulations and obligations violated in the implementation of relevant trade agreements. Abstract-logical method – when clarifying the essence of the basic concepts, definitions, and categories in the field of the implementation of the legal procedure for resolving trade disputes and violations of the requirements of agreements between the participants of the organisation, when generalising and forming conclusions. The algorithmization method – justification of the basic areas of reforming the procedure for resolving conflict issues on the World Trade Organization platform with a detailed justification of the stages of subsequent appeal proceedings for the timely completion of the disputed case.

RESULTS AND DISCUSSION

The field of international economic relations recognises almost unprecedently that countries that have received WTO membership have an advantage over countries operating in the world trade market (Figure 1). Member states can defend their rights and interests through the established legal system of dispute resolution. Ultimately, the solution of such issues based on the national judicial system is almost impossible (Malskyi, 2006).

All WTO members must fulfil the obligations specified in agreements and special legal documents that have the common name "Multilateral Trade Agreements" to implement international economic relations, in particular, trade (Jönsson et al., 2022). Recently, an important package of agreements is the approved legal documents as a result of the Uruguay Round, which brings together about 60 agreements and various regulatory documents, the defining one of which is the Agreement Establishment the World Trade Organization (1995). Notably, multilateral agreements are the legal mechanism that should regulate the fulfilment of all obligations and rules in the course of cooperation between governments. The Uruguay Round Agreements (1995) are the basic legal documents in force in the organisation's system today. All agreements have a clearly defined structure and form a system of six elements: agreement on the establishment of an organisation; agreement for goods; agreement for services; agreements for intellectual property; settlement of disputes and conflict situations; agreement-review of trade policy.

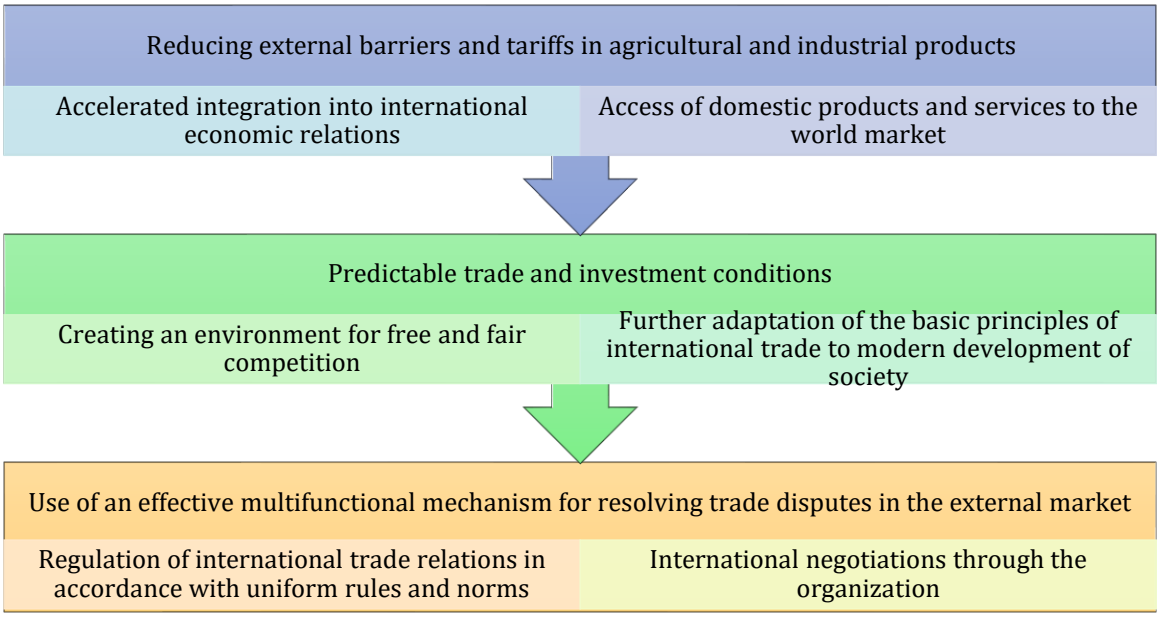

Figure 1. Benefits of membership in the World Trade Organization

Source: compiled by the authors according to the World Trade Organization (2022).

The most common agreements are in the field of goods and services, which have a certain structure and contain three separate parts. Agreements are justified by certain principles contained in the provisions: General Agreement on Tariffs and Trade (1994) (for goods); General Agreement on Trade in Services (1995); Trade-Related Aspects of Intellectual Property Rights (1995) (Malskyi, 2006). The obligations in the agreements of the participants of the organisation are regulated by annexes relating to specific cases, sectors and issues. In addition, legal documents contain a special list of obligations and rules in accordance with the requirements of some countries, which is the key to the access of imported goods and services to national markets. For example, an agreement formed in accordance with GATT contains obligations to establish tariffs for goods in general, and combinations of tariff rates, quotas, subsidies for specific agricultural products (Petersone & Ketners, 2017). GATS contains a list of rules according to which obligations are formed on the volume of access of international service providers to certain areas of trade (Cisneros-Montemayor et al., 2022). The existence of clear rules and generally defined agreements is the driving force that controls compliance with all obligations of the organisation's members on the territory of the world market (Abdraimov et al., 2013).

However, the existence of a seemingly effective legal mechanism has a number of drawbacks. As noted by Malskyi (2006), according to Professor Klaus-Dieter Lehmann, who was chairman of the World Trade Organization Appeal Body for quite a long period, the provisions of the regulations that came into force after the Uruguay Round have a number of "gaps and shortcomings", although they are decisive in the functioning of international trade agreements. The functioning of the World Trade Organization is characterised by transparency. According to the Uruguay Round Agreements (1995), individual member states annually conduct an independent examination analysing for this purpose a number of advantages and disadvantages in the application of the legal dispute settlement mechanism (World Trade Organization, 2022). Advantages:

1. The possibility of using the rules and regulations of the World Trade Organization as a powerful political mechanism.

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2. Transparent dispute resolution mechanism in contrast to the specific features of the implementation of diplomatic negotiations.
3. Application of a legal dispute resolution mechanism not only in the field of trade but also in the field of services and intellectual activity.
4. Decisions made as a result of dispute settlement in most cases have practical implementation.
5. Due to the step-by-step procedure for resolving conflict situations, acting according to the normatively defined rules, even states with a population of fewer than 100 thousand people can win (Malskyi, 2006).

Disadvantages:

1. The period of resolution of a legal dispute may take from 1 to 2.5 years, although for individual cases it may be over 3 years.
2. When resolving a dispute, potential violations of specific obligations of a trade agreement may be violated due to the absence of such a thing as "securing a claim".
3. The absence of mandatory compensation on the part of the defendant during the entire conflict resolution procedure, which accordingly entails substantial losses on the part of the plaintiff.
4. There is also the problem of the uneven economic potential of the countries directly involved in the dispute. Ultimately, a country with low socio-economic development, acting as a plaintiff in a conflict with a leading country, almost does not affect the further development of a strong economic state with sanctions that were applied as a result of a legal decision (Malskyi, 2006; Khamzina et al., 2015).

For example, regarding individual countries or their economic and political unions, for example, the United States of America (USA), China, and the European Union (EU), often the bureaucratic system of the World Trade Organization simply does not risk filing a lawsuit with an international tribunal, since this is an extremely difficult political step (Robertson, 2022). Figure 2 shows an analysis of the number of members of the World Trade Organization for the period from 1995 to 2021, who took part in the settlement of disputes and held various positions simultaneously.

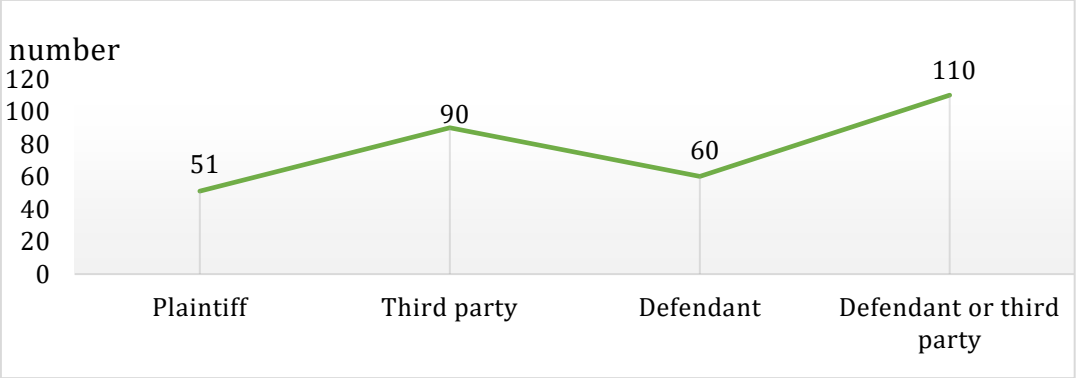

Figure 2. Analysis of the number of members of the World Trade Organization from 1995 to 2021 who took part in dispute resolution and held different positions simultaneously

Source: compiled by the authors according to Dispute Settlement Activity – Some Figures (2021).

The analysis of Figure 2 shows that for more than 20 years of the organisation's existence, 50 of its members were initiators of the settlement of at least one dispute, and 60 participants were defendants. Therewith, 90 members were initiated as a third party when considering court sessions between other

members of the organisation, and 111 participants chose the role of a defendant, plaintiff, or a third party. Figure 3 shows a diagram that reflects the number of court cases, clearly showing that disputes have been formed and are still being formed in various areas of the functioning of agreements concluded on the World Trade Organization platform. Nevertheless, a substantial number of conflict situations are formed when fulfilling obligations under the rules and principles of the General Agreement on Tariffs and Trade (1994).

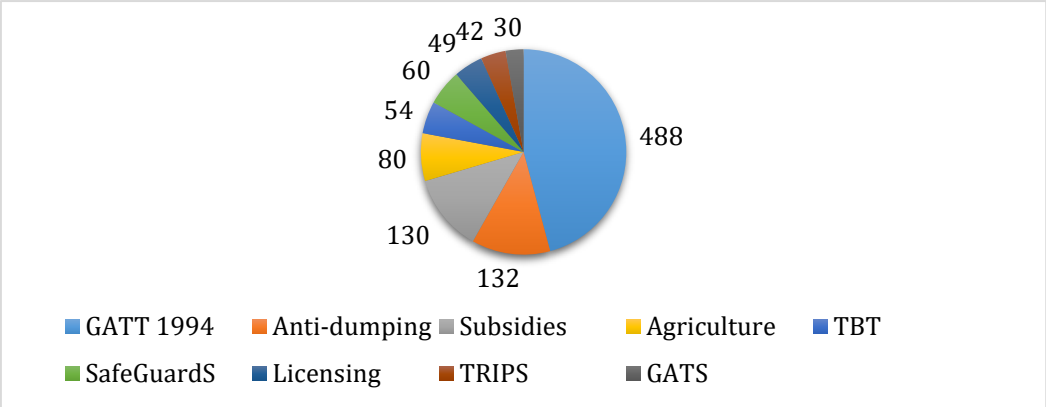

Figure 3. Distribution of the scope of international trade agreements and their number, the obligations of which have been violated throughout the existence of the organisation

Note: TBT – Technical Barriers to Trade.
Source: compiled by the authors according to Dispute Settlement Activity – Some Figures (2021).

During the settlement of disputes, there are quite often situations when a consensus was not reached before the end of a so-called smart period, and the parties did not agree on the amount of compensation. In this case, there is a temporary suspension of the fulfilment of certain obligations under the participant's agreement. If the parties cannot agree on the level of compensation and the corresponding sanctions, even with such a decision, then the case may be referred to the arbitration court, which determines the permissible level of suspension of obligations. Most cases are resolved without such a forced stage as the arbitration court. However, as displayed in Figure 4, at least 6 decisions have been made by the arbitration court over the past ten years.

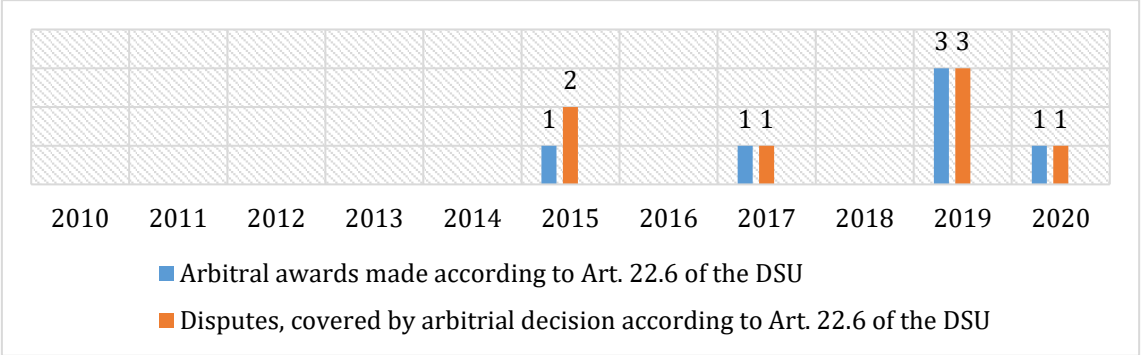

Figure 4. The number of deals for which arbitral awards were made and the corresponding suspension of obligations

Note: DSB – Dispute Settlement Body.

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Source: compiled by the authors according to Dispute Settlement Activity – Some Figures (2021).

An important fact is that even after making a certain decision on a particular dispute, the parties may not agree with certain obligations or the level of compensation. In this case, the participant may request the creation of a separate commission provided by the Appellate Body of the World Trade Organization. For example, in 2021, 189 out of 277 cases were filed for an appeal. This indicates that the appeal was filed in 68% of cases, despite the reports of the commissions during the initial meetings (Dispute Settlement Activity..., 2021). The bar chart in Figure 5 shows the ratio of submitted requests for consultation with subsequent consideration of decisions by the appeals commission. On average, over 50 per cent of decisions are submitted for appeal.

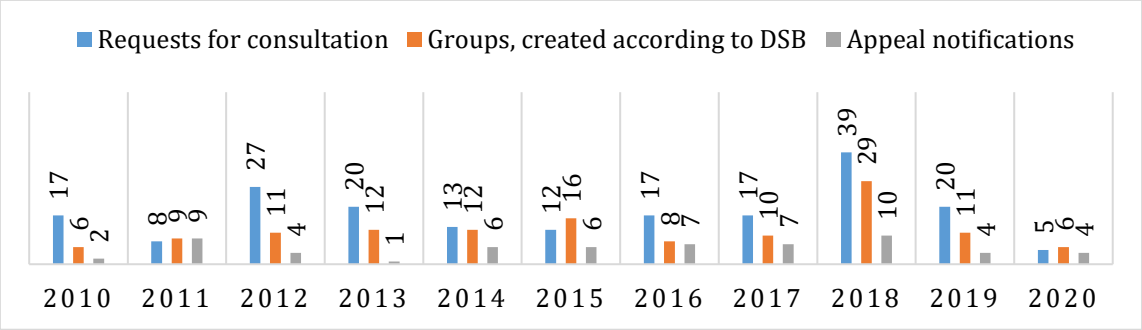

Figure 5. The number of disputes initiated, primary groups created and reports of appeals in primary proceedings over the past 10 years

Source: compiled by the authors saccording to Dispute Settlement Activity – Some Figures (2021).

The need for reform in the WTO dispute settlement mechanisms has become increasingly apparent, particularly in light of recent challenges that have hindered its effectiveness. One of the primary issues is the significant delays in establishing panels to adjudicate disputes. These delays not only prolong the resolution process but also undermine confidence in the system's ability to provide timely and fair outcomes. Furthermore, the Appellate Body, a critical component of the dispute settlement process, has not been fully functional since 2019 due to the inability to appoint new members. This paralysis has left many disputes unresolved at the appellate stage, creating a backlog and depriving members of the legal certainty that the mechanism was designed to offer. The inability to maintain a fully operational Appellate Body also raises broader questions about the WTO's capacity to adapt to contemporary trade challenges. As disputes grow more complex, involving issues such as digital trade, environmental policies, and geopolitical tensions, the lack of an effective appellate mechanism exacerbates uncertainties in global trade relations (Burmistrov et al., 2024). These structural and procedural challenges highlight the urgent need for reform to ensure that the WTO's dispute settlement system remains a credible and reliable pillar of international trade governance. Addressing these issues early in discussions emphasizes the centrality of these reforms to the future of the WTO and the stability of the global trading system.

Table 1 provides a summary of Ukraine's request for a consultation with the Republic of Kazakhstan on anti-dumping measures that were applied to certain types of steel pipes in the customs territory of Kazakhstan.

Table 1. Characteristics of the case DS530: Kazakhstan – Anti-dumping Measures on Steel Pipes

Case name	DS530: Kazakhstan – Anti-dumping Measures on Steel Pipes
Plaintiff:	Ukraine
The defendant:	Republic of Kazakhstan
Cited agreements: (as indicated in the request for consultation)	Article 3.1, 3.4, 3.5, 5.2, 5.3, 6.1, 6.2, 6.8, 8.3, 11.1, 11.3, 12.2, Annex II Antidumping Article VI GATT 1994
Request for consultation:	September 19, 2017

Source: compiled by the authors according to DS530: Kazakhstan – Anti-dumping Measures on Steel Pipes (2017).

At these consultative negotiations, Ukraine claimed that the activities were conducted unlawfully in relation to the obligations contained in articles 3.1, 3.4, 3.5, 5.2, 5.3, 6.1, 6.2, 6.8, 8.3, 11.1, 11.3, 11.1, 11.3, 11.1, 11.3, 11. II of the Anti-dumping Agreement, and the provisions of Article VI of the 1994 GATT. Subsequently, on October 6, 2017, Russia made a request to join the consultations. In turn, the Republic of Kazakhstan received a message about the accession of Russia to the consultations. On October 19, 2017, Ukraine was notified of concerns about the application of Russia to join the consultations, which was submitted after a 10-day period, which is illegal in accordance with the provisions of Article 4.11. In 2018, Ukraine supplemented the request for consultations, in which it indicated that Kazakhstan had not complied with the conclusions of the investigative body during the interim review of anti-dumping duties on steel pipes, which began in October 2017, concluding that tariff duty rates should be reduced (DS530: Kazakhstan..., 2022). However, for 2022, this dispute remains in the status of a request for consultation.

This case provides a vivid example of the complexities inherent in the WTO dispute resolution mechanism, particularly in the context of anti-dumping measures. The legal intricacies highlighted in the case DS530 illustrate how the interpretation and application of specific provisions, such as those under the Anti-dumping Agreement and GATT Article VI, can lead to significant disagreements among member states. The procedural irregularities, including the timeliness of Russia's application to join the consultations, underscore the critical importance of adhering to the DSU's procedural rules to ensure fairness and predictability in dispute resolution. Moreover, Ukraine's supplementation of its consultation request demonstrates how ongoing disputes can evolve as new evidence or developments arise, reflecting the dynamic nature of trade conflicts (Amelin et al., 2024). This evolving nature of disputes emphasizes the need for a robust and adaptable legal framework within the WTO to address such challenges effectively. By examining these cases, researchers and policymakers can gain a deeper understanding of the operational challenges faced by the WTO`s dispute resolution system and identify potential areas for improvement in aligning its legal instruments with the realities of international trade (Ladychenko et al., 2023).

Table 2 provides information about the dispute that arose in early 2022 between the European Union (EU) – as a plaintiff and China – as a defendant. In particular, representatives of the EU requested consultations on solving a problematic issue related to the protection and observance of intellectual property rights. Therewith, it was stated that the measures under consideration seemed incompatible with the provisions of Article 1.1, 41.1, and 44 of the Trade-Related Aspects of Intellectual Property Rights (1995), which regulate the rules for the sale of patents and the conclusion of license agreements for their assignment and further application (DS611: China..., 2022).

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Table 2. Characteristics of the case DS611: China – Enforcement of intellectual property rights

Case name:	DS611: China – Enforcement of intellectual property rights
Plaintiff:	European Union
The defendant:	China
Cited agreements: (as indicated in the request for consultation)	Article 1.1, 28.1, 28.2, 41.1, 44.1, 63.1, 63.3 of Intellectual Property (TRIPS) Protocol of Accession
Request for consultation:	February 18 , 2022.

Source: compiled by the authors according to DS611: China – Enforcement of intellectual property rights (2022).

The EU representatives also stated that China had acted outside of its obligations defined by the provisions of Article 63.1 of TRIPS by not providing the European Union with information about three court decisions related to the measures, which, accordingly, were requested by the European Union. Less than a month after the consultation request, Canada, Japan, and the United States requested to join as third parties. As of the end of 2022, the dispute remains in the request for consultation status (DS611: China..., 2022).

Despite all the advantages of the functioning of the legal mechanism for the settlement of disputed issues, if the members of the World Trade Organization do not comply with a certain list of obligations, a number of shortcomings will arise, destroying the system that has been providing stable international trade for more than 25 years. That is why the Delegation of the European Union, together with Australia, Canada, China, Iceland, India, Korea, Mexico, New Zealand, Norway, Singapore, and Switzerland have officially published proposals to eliminate the improvement of the legal mechanism for dispute settlement. Therewith, special attention is paid to the reform of the Appellate Body, without which it is almost impossible to come to an agreed decision (WTO reform: EU..., 2018).

According to representatives of the EU and other members of the World Trade Organization, the implementation of the main ideas for reforming the procedure for resolving conflict issues will ensure further efficiency and unprecedented international trade cooperation. In particular, the reform includes the following areas:

1. simplification of the negotiation process for the conclusion of new agreements to address important trade issues;
2. the unification of all countries by the obligations of the multilateral agreements will allow not blocking the progress of those members who strive for this, and stopping the intervention of someone who has the goal of preventing development processes;
3. multilateral agreements will be open to all members and can subsequently be integrated into the framework of the rules of the organisation;
4. restoration of the full functioning of the dispute settlement mechanism by resolving the current situation with the Appellate Body;
5. constant monitoring of the trade relations of the members of the organisation by increasing the transparency of trade practices and improving the work of individual structural bodies of the World Trade Organization (WTO reform: EU..., 2018).

Discussion

Basic Principles of WTO Dispute Settlement

The compliance with agreements and obligations among WTO member states forms the foundation of the organisation's operation. The dispute resolution mechanism is rooted in the principle of ensuring

that all members adhere to the commitments specified in WTO agreements. As noted by Barlow and Thow (2021), this system aims to reproduce balanced and lawful trade relations rather than imposing punitive actions on the violating party. The mechanism's legal framework ensures that obligations are neither increased nor diminished, maintaining the integrity of the agreements. However, one of the significant weaknesses of the system lies in the absence of retrospective redress mechanisms. The affected party does not receive compensation for prior damages, and resolutions often merely suspend the defendant's illegal actions temporarily. This limitation highlights the need for a more robust legal framework that can address such shortcomings and improve fairness within the system.

Challenges in Dispute Settlement Mechanisms

One of the primary challenges facing the WTO dispute resolution system is the paralysis of the Appellate Body since 2019. This situation, caused by the inability to appoint new members, has rendered the appellate process non-functional, leaving many disputes unresolved at a critical stage. The delays in establishing panels and prolonged timelines for resolving disputes further exacerbate the system's inefficiency. As highlighted by Shi (2022), unresolved disputes can escalate into trade wars, unbalancing the global economy. For instance, conflicts between major economic players, such as the United States, China, and the European Union, often arise due to legislative incompatibilities and efforts to protect national interests. (Dankevych et al., 2023) These trade wars demonstrate the systemic vulnerability of the current dispute settlement mechanism, emphasizing the need for timely and effective resolutions.

Social inequality also poses a significant challenge within the WTO framework. As Semeen and Islam (2021) argue, less developed countries often face rhetorical barriers in disputes, while economically dominant nations have greater leverage and resources to secure favorable outcomes. The symbolic power of social influence further complicates the resolution process, necessitating reforms to ensure equal treatment for all member states. Despite these challenges, the normative rules of the WTO provide a structured, step-by-step process for dispute resolution, as demonstrated in the case of Antigua and Barbuda successfully challenging the United States in a conflict over online gambling. This example highlights the potential of the WTO's legal framework to deliver justice, even for smaller states, provided the rules are applied equitably.

Case Studies and Their Relevance to Legal Mechanisms

The case of DS530, involving Ukraine and Kazakhstan, illustrates the legal complexities of the WTO's dispute resolution system. Ukraine's claim that Kazakhstan's anti-dumping measures on steel pipes violated multiple provisions of the Anti-dumping Agreement and GATT Article VI underscores the intricacies of interpreting and applying WTO law. The procedural issues, such as Russia's delayed request to join consultations, highlight the importance of adhering to the DSU's procedural rules (Barlow and Thow, 2021). This case remains unresolved, demonstrating the need for procedural and substantive reforms to enhance the effectiveness of the WTO's mechanisms. Another notable example is the dispute between the European Union and China over intellectual property rights. China's alleged violation of trade patent obligations underscores the importance of clear legal standards and enforcement mechanisms. Currently at the consultation stage, this dispute exemplifies the challenges of balancing national interests with international legal obligations. Similarly, the trade conflict between Korea and Japan in 2019, analyzed by Shin and Balistreri (2022), highlights the economic consequences of unresolved disputes. The combination of Japanese export controls and Korean boycotts resulted in significant financial losses, demonstrating the high stakes of trade conflicts and the need for effective dispute resolution.

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Recommendations for WTO Reform

Reforming the WTO dispute settlement mechanism is critical to addressing its current shortcomings and ensuring its relevance in the face of emerging challenges. One proposed reform is the digitization of arbitration processes, which could reduce delays and enhance accessibility for developing countries. By implementing digital platforms for case management, the WTO could streamline procedural stages and improve transparency. Additionally, increasing the representation of developing countries in panel and Appellate Body appointments could help address concerns about social inequality and symbolic power in dispute resolution. The WTO must also adapt its legal framework to address new challenges such as digital trade and sustainability. For instance, including provisions for e-commerce and digital goods in trade agreements could prevent disputes over these rapidly growing sectors. (Llazo et al., 2024) Similarly, integrating principles of sustainable development into the dispute settlement mechanism would align the WTO's operations with global environmental goals. The example of Canada and the UK's Agreement on the continuity of trade, which incorporates elements of sustainable development, demonstrates the potential for such integration (de Lange et al., 2022).

Statistical data further supports the need for reform. Since the WTO's inception in 1995, 607 requests for consultations have been filed, highlighting the system's critical role in global trade governance (Johannesson and Mavroidis, 2017). However, the increasing complexity and volume of disputes necessitate procedural and structural improvements to maintain the system's effectiveness. Comparing trends in dispute resolution between developed and developing countries reveals disparities that must be addressed to ensure equitable access to justice for all members.

The WTO dispute settlement mechanism plays a vital role in maintaining the integrity of international trade. However, the system faces significant challenges, including procedural delays, the paralysis of the Appellate Body, and issues of social inequality. By adopting reforms such as digitization, increased access for developing countries, and adaptation to emerging trade issues, the WTO can enhance its legal framework and ensure its continued relevance in a rapidly changing global economy. Addressing these challenges will not only strengthen the organisation's dispute resolution mechanism but also contribute to the stability and fairness of the international trade system.

CONCLUSION

The WTO dispute settlement mechanism remains a cornerstone of the global trading system, offering a structured legal framework for resolving trade conflicts and safeguarding the interests of member states. However, this mechanism is not without significant shortcomings that impact its overall effectiveness, particularly for developing countries. One of the primary weaknesses lies in the lack of provisions for interim measures to protect the economic interests of claimants during the often-lengthy dispute resolution process. This absence leaves the plaintiff state vulnerable to financial losses, even in cases where the final ruling is in their favor. Moreover, the inability to secure compensation for damages incurred during the dispute resolution period further exacerbates the imbalance, disproportionately affecting nations with limited economic resources.

These weaknesses highlight the urgent need for reform to enhance the fairness and functionality of the dispute settlement system. Practical solutions, such as introducing temporary relief measures or enabling compensation mechanisms, would help mitigate the economic disadvantages faced by the claimant. Additionally, the current challenges with enforcing decisions and the disparity in practical options available to member states for the suspension of obligations must be addressed. Developing

countries, in particular, face barriers to leveraging these mechanisms due to their lower economic and political influence.

Future research should focus on optimizing the selection and functioning of the Appellate Body, streamlining the timeline for resolving disputes, and adapting the WTO's legal framework to address emerging challenges such as digital trade and sustainability. By addressing these critical issues, the WTO can ensure that its dispute settlement mechanism remains relevant, equitable, and capable of supporting a balanced global trading system.

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