

WTO Disputes settlement Mechanism

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With the retirement of two of the remaining three members of the World Trade Organization (WTO) Appellate Body in December 2019 and the Office of the United States Trade Representative blocking any re-appointments, the appellate body has been rendered dysfunctional (Ujal Singh Bhatia was a member from India who got retired in December 2019)

When does a dispute arise?

A dispute arises when one country adopts a trade policy measure or takes some action that one or more fellow-WTO members consider to be breaking the WTO agreements or to be a failure to live up to obligations.

The procedure of Dispute settlement in WTO:

Dispute settlement is the central pillar of the multilateral trading system, and the WTO's unique contribution to the stability of the global economy.

The majority of the disputes at the WTO concern trade remedy matters.

If a state violates the rules, affected states can without recourse to the WTO, adopt countermeasures such as the imposition of anti-dumping and countervailing duties.

The WTO dispute resolution mechanism primarily aims to police the adoption of such countermeasures, namely whether they were warranted and otherwise imposed consistently with the rules.

Dispute Settlement Board (DSB), the WTO organ is responsible for the adjudication of such disputes.

It has the sole authority to establish "panels" of experts to consider the case and to accept or reject the panels' findings or the results of an appeal.

It monitors the implementation of the rulings and

recommendations and has the power to authorize retaliation when a country does not comply with a ruling.

The first stage is consultation (up to 60 days): Before taking any other actions the countries in dispute have to talk to each other to see if they can settle their differences by themselves. If that fails, they can also ask the WTO director-general to mediate or try to help in any other way.

Second stage:(up to 45 days for a panel to be appointed, plus 6 months for the panel to conclude): If consultations fail, the complaining country can ask for a panel to be appointed. Officially, the panel helps the Dispute Settlement Body make rulings or recommendations.

The panel's findings have to be based on the agreements cited and as the panel's report can only be rejected by consensus in the DSB, its conclusions are difficult to overturn.

Rulings issued by the panels can be appealed at the Appellate Body (AB).

The AB can uphold, modify or reverse the legal findings and conclusions of a panel.

Hence its decisions are final and adopted within 30 days by the dispute settlement body.

Sanctions can be imposed on a member in case of its failure to comply with the AB's rulings.

Structure of the body:

The WTO Appellate Body was first established in 1995.

The Appellate Body is composed of seven members who are appointed by the DSB to serve for four-year terms.

Each person may be reappointed for another four-year term.

Each member of the Appellate Body is required to be a person with demonstrated expertise in law, international trade and the subject-matter of the covered agreements generally.

They are also required to be unaffiliated with any government and are to be broadly representative of the membership of the WTO.

A Chairman is elected among the Members to serve a one-year

term, which can be extended for an additional period of one year.

He is responsible for the overall direction of Appellate Body business.

The current Chairperson is Hong Zhao of China.

A Division of three Members is selected to hear each appeal and each division elects a Presiding Member.