RETHINKING DEVELOPING COUNTRY PARTICIPATION IN WTO DISPUTE SETTLEMENT SYSTEM REFORM

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ABSTRACT

Developing countries have a very limited participation in the WTO Dispute Settlement System. Although legal equality exists, capacity asymmetries between developing countries continue to hamper participation, with smaller economies struggling while larger economies thrive. This unequal participation persists due to financial, legal, administrative, and information barriers, along with procedural rigidity, the paralysis of the Appellate Body and limited remedies. This study explores these differences through a doctrinal analysis of WTO texts, panel reports, and reform proposals. This study also shows how power disparities, differences in institutional capacity, and constraints in financial, legal, and informational resources continually impact the participation of developing nations. The impact of institutional capacity differences on economically weaker countries' involvement in WTO dispute settlement is examined in this article, along with potential reforms that could rectify these discrepancies without compromising the rule-based framework of the system.

Keywords: WTO Dispute Settlement, Developing Countries, Institutional Capacity Asymmetries, Appellate Body Crisis, WTO Reform.

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1. Introduction

1.1 Background

The dispute settlement system of the WTO is an important component of the multilateral trading system, which offers formal, rules-based adjudication that enables all members, including developing nations, to protect their rights (Esserman & Howse 2003; Abbott et al. 2000).

However, participation by developed and developing nations is uneven in reality. The reasons are that developing nations have limited financial, legal, and informational resources, and many low-income nations participate scarcely in disputes. However, a small number of 'emerging economies' such as Brazil, India, Mexico, Thailand, and Chile frequently initiate and resolve them (Singh & Tara 2019). The major powers continue to control key areas, including subsidies, technical regulations, and intellectual property. In contrast, developing nations focus on 'high-observability' measures, such as anti-dumping duties and safeguards.

The Advisory Centre on WTO Law (ACWL) offers subsidised legal assistance. However, its primary goal is to increase participation among nations already involved in dispute resolution (Goswami 2025). Enforcement mechanisms, such as the suspension of concessions under DSU Article 22, favour larger economies that can retaliate[2], leaving smaller nations with few realistic options (Smith 2004). SDT provisions provide procedural support but are not legally enforceable and have only a small effect on filling capacity gaps (Qureshi 2003; Rolland 2007).

Many developing nations have had limited access to appellate review since 2019 due to their voluntary participation in the Multi-Party Interim Appeal Arbitration Arrangement (MPIA) and the Appellate Body crisis (McDougall 2024). Structural capacity issues remain only partially addressed, and consensus-driven protections may be weakened (Van den Bossche 2023).

This study shows how power disparities, differences in institutional capacity, and constraints in financial, legal, and informational resources continually impact the participation of developing nations. The impact of institutional capacity differences on economically weaker countries' involvement in WTO dispute settlement is examined in this study, along with potential reforms

[2] When a Member disregards dispute rulings, compensation and the suspension of concessions are governed by Article 22 of Dispute Settlement Understanding. It states how and when a complaining party may suspend trade concessions against the non-complying Member, among other retaliation procedures.

that could rectify these discrepancies without compromising the rule-based framework of the system.

1.2 Statement of the Problem

Developing countries are unable to access remedies or to participate in the WTO's rules-based dispute resolution process due to institutional capacity constraints.

These structural disparities make it challenging to ensure fair participation and the enforcement of trade rights, raising reasonable doubts whether proposed and existing reforms can be effectively implemented without jeopardising the integrity of the legal system.

1.3 Research Questions

The central research Question of this paper is-

"How do institutional capacity asymmetries influence developing countries' participation in WTO dispute settlement?"

In engaging with the primary research question, the following two ancillary questions are raised:

1. To what extent do current WTO dispute settlement procedures and remedies pose structural constraints for developing countries?
2. Which WTO dispute settlement reform measures most effectively address institutional capacity constraints faced by developing countries?

1.4 Research Objectives

1. To identify trends in developing-country participation in WTO dispute settlement from 1995-2025.
2. To examine how specific institutional capacity constraints (legal, financial, informational, and remedial) affect developing countries' use of WTO dispute settlement.
3. To assess selected WTO dispute settlement reform proposals based on their capacity to reduce institutional asymmetries faced by developing countries.
4. To determine which reform measures can enhance developing-country participation while maintaining the rules-based nature of WTO dispute settlement.

1.5 Hypothesis

The limited legal expertise, financial resources, limited access to information, and lack of ruling enforcement capacity of the DCs result in the limited participation in the WTO dispute settlement process. Although SD&T provisions and ACWL assistance are there, they are not adequate to address the mentioned structural constraints.

1.6 Analytical Framework

This paper examines developing nations' involvement in WTO dispute settlement from three angles. They are (a) legal-institutional, (b) political-economic approach, and (c) equity.

(a) The legal-institutional perspective evaluates WTO dispute-resolution laws, procedures, and specific provisions to understand how these principles help or hinder developing countries.

(b) According to the 'political-economy approach', imbalances in power, economic reasons, and the threat of repercussions impact whether developing countries pursue disputes.

(c) The third factor is 'Equity', which refers to whether the system delivers genuine access and equitable outcomes to countries with limited resources.

Collectively, these perspectives examine system capacity constraints and inform the assessment of measures to improve developing nations' participation while retaining a rules-based framework.

1.7 Limitation, Expected Contribution and Significance of the Paper

Despite its limitations in scope, time, and access to WTO reports, this research aims to make two contributions.

(1) It provides a summary of the legal and political-economy literature on WTO dispute resolution, and identifies the participation trends of Global North and South from 1995-2025.

(2) It offers a measured evaluation of feasible reform ideas currently under debate, rather than promoting unrealistic recommendations for the system.

1.8 Methodology

This paper adopts a qualitative, doctrinal legal research approach. In addition to an evaluation of scholarly literature. This study is based on a desk-based analysis of legal texts and institutional documents, including the WTO Dispute Settlement Understanding (DSU), panel and Appellate Body reports, DSB records, and official dispute-settlement reform texts. However, empirical data have been utilised to support the qualitative analysis.

To investigate how institutional capacity asymmetries affect developing-country participation in WTO dispute settlement, the analysis focuses on closely examining and interpreting legal regulations and reform proposals by various authors.

No fieldwork, surveying, or interviewing has been done. Through systematic doctrinal comparison, reform proposals are evaluated on the basis of their legal design.

Overall, the unequal participation of the DCs and LDCs in the WTO dispute settlement system persists because they lack the equal resources as other participating countries like the global north. The global north has experienced trade lawyers, better economies, and greater access to information, which provide them advantages in resolving disputes. Whereas, the DCs and LDCs lack such expertise and resources. Despite the ACWL and regulations for developing nations being two mechanisms in place to assist, these mechanisms are insufficient to address the issue of unequal participation in the WTO dispute resolution. Addressing capacity issues can encourage the weaker economies to participate effectively and more frequently in that process.

2. Literature Review

The WTO dispute settlement system is one of the most advanced adjudicatory mechanisms in the world, because it introduced a structured set of rules for resolving trade disputes between its member states. The WTO DSM established more robust legal procedures, including the automatic formation of panels, binding rulings, and appellate review by the Appellate Body. In contrast to the previous GATT diplomatic method.

According to Jackson (1997) and Abbott et al. (2000), these institutional characteristics greatly enhanced the legal nature of international trade governance and helped make WTO regulations predictable and enforceable.

Davey (2022) argues that the DSU is a significant step toward the judicialisation of international economic relations under the WTO system. He states that under the WTO system, the judicial interpretation of treaty commitments has replaced political bargaining as the primary method of dispute resolution. Hudec (2002) adds that the Panels and the Appellate Body interpret the WTO agreements, such as the Anti-dumping Agreement (ADA), the Agreement on Subsidies and Countervailing Measures (SCM), and the General Agreement on Tariffs and Trade (GATT). This, according to him, is indicative of a larger trend toward the legalisation of international relations, in which binding rules and adjudicatory bodies are important for controlling states' conduct.

Despite these institutional developments, scholars contend that the WTO's dispute resolution process depends on member states' ability to implement formal legal regulations successfully (Qureshi 2003; Abbott 2007).

Scholars also note, although Article 3(2) of the DSU gives all of its member states equal legal rights, practical participation is still uneven. The extent to which states can initiate and pursue disputes in administrative capability, legal expertise, and economic strength varies. Because of this, the system frequently reflects more general structural differences in the international trading system (Shaffer 2003).

This literature review examines the primary academic discussions of the WTO DSP focusing on four central fields of legal scholarship-

(a) DSU's legal framework
(b) Participation patterns of the DCs and the challenges they face
(c) The dysfunctionality of the Appellate Body
(d) MPIA and reformations.

The DSU establishes the legal rules for dispute settlement between WTO members, including procedures for consultation, panel proceedings, appellate review, and enforcement of rulings. One of the most significant changes was the establishment of a rule that created panels under Article 6, eliminating a political bargaining point for respondents and further institutionalising the WTO system's rule-based nature (WTO 2017).

The Appellate Body, which examines panels' legal interpretations, is another important component of the system. The seven members of the Appellate Body typically serve fixed terms

and hear appeals in groups of three. Its duty is to make sure that WTO law is interpreted consistently and coherently. Legal experts claim that by defining interpretive principles and ambiguous legal provisions, the appellate body made a substantial contribution to the growth of WTO jurisprudence (WTO 2017; Van den Bossche 2023).

Dispute resolution usually follows a structured process under the DSU framework. The parties in the dispute first hold consultations under Article 4, and can also approach the Good Offices under Article 5 of the DSU (DSU 1995). The complainant may request for the formation of a panel if consultations are unsuccessful. To determine whether the contested measure violates WTO obligations, panels review the evidence, interpret pertinent WTO agreements, and issue a report. Either party can file an appeal with the Appellate Body if they disagree with the panel's legal interpretation. The parties are bound by the Dispute Settlement Body's final reports, and the losing member is required to align its actions with WTO regulations (WTO 2017).

Legal scholars emphasise that the DSU is a reliable and efficient method of resolving trade disputes. However, they note that DSU is heavily reliant on state compliance and enforcement mechanisms, such as authorised retaliation, and that the WTO cannot directly enforce its decisions; instead, it must depend on reciprocal trade measures approved by the Dispute Settlement Body (Qureshi 2019; Davey 2022). This enforcement mechanism is less effective for smaller economies because retaliation often takes the form of suspending trade concessions against the losing party. Small economies may lack sufficient economic leverage to impose meaningful trade sanctions, resulting in a wide variation in the ability to enforce WTO rulings based on the complaining state's economic size and trade capacity (Bagwell 2004).

The participation of developing nations is one of the most discussed areas in the literature on WTO dispute settlement. Although all WTO members are officially granted equal legal rights under the DSU, existing research shows that participation in dispute resolution is incredibly uneven (Qureshi 2003; Singh & Tara 2019). Studies show that a comparatively few nations initiate most WTO disputes. These nations can actively engage in WTO disputes due to their comparatively strong legal and administrative capabilities (Qureshi 2003; Singh & Tara 2019).

Least developed nations, on the other hand, have never initiated a case in the WTO Dispute Settlement, except Bangladesh. It became the only least developed nation to initiate a case in the

WTO dispute resolution procedure to file a complaint cited as DS306 in January 2004.[3] The DSU's accessibility and fairness have come under scrutiny due to the low participation of many developing nations (Smith 2004; Bown & Hoekman 2005). Scholars pinpoint several reasons for this discrepancy including substantial legal knowledge and financial resources are needed for WTO dispute settlement, comprehensive legal analysis, economic evidence, and copious documentation are all necessary for case preparation (Qureshi 2003; Abbott 2007; Shaffer 2003). Many developing nations appoint experienced legal counsels from different countries, which can be costlier, because their governments lack specialised trade law units.

Other reasons include spotting possible WTO rule violations, many of which might be difficult to spot without advanced monitoring systems, and many smaller economies lack awareness that they are impacted by WTO-inconsistent policies, access to comprehensive trade data and technical know-how is required. Moreover, Bown & Hoekman (2005) note the DSU's remedies do not provide smaller states sufficient incentive to initiate disputes, because trade retaliation, the primary enforcement mechanism, often costs the complaining nation money, particularly if the respondent is a significant trading partner/ bigger economy. As a result, formal litigation may be discouraged in favour of diplomatic talks.

The creation of the (ACWL), which offers developing nations subsidised legal aid and representation in WTO disputes, was one institutional attempt to address these issues. However, academics note that this initiative has mostly benefited nations with some institutional capacity (Bown & McCulloch 2010; Rolland 2007; Qureshi 2003).

The paralysis of the Appellate Body has caused a serious institutional crisis in the WTO dispute settlement system in recent years. Due to a shortage of appointed members, the Appellate Body has not been able to consider new appeals since December 2019. The primary cause of the crisis was the United States' opposition to the nomination and reappointment of Appellate Body members (Spandano 2023). Critics in the United States contended that the Appellate Body overstepped its power by engaging in 'judicial activism', specifically by interpreting WTO agreements to create new legal duties beyond the treaties' text (Pauwelyn 2019; Chan 2025). This impasse has resulted in a major institutional crisis in the WTO's dispute settlement mechanism.

[3] It was initiated by Bangladesh against the massive tariffs of 131% on Bangladeshi batteries by Diractorate General of Anti-dumping, India. In February 2006, both parties notified DSB regarding their mutually agreed solution.

The blocking of appointments gradually decreased the number of judges available to hear cases because the DSU requires consensus among WTO members for the appointment of Appellate Body judges. The inability of the body to form a three-member panel to hear appeals eventually rendered it unable to operate. Consequently, the appellate phase of the dispute resolution process fell apart (Van den Bossche 2023; Zhu 2025; Hoffman 2025).

Academics argue that the Appellate Body crisis has damaged the legitimacy and trust in the WTO's multilateral dispute-resolution system. The consistency and predictability of WTO jurisprudence is jeopardised in the absence of a functional appellate stage (Davey 2022; Goswami 2025).

Recent trade disputes highlight the shortcomings of the WTO dispute-resolution process. The protracted banana dispute between the United States and the European Union DS27 is often discussed in the literature. The WTO repeatedly found that the European Union's banana import policy violated various GATT and GATS provisions. Despite these rulings, the disagreement persisted for many years because implementing the decisions proved difficult (WTO 2017; Qureshi 2019; South Centre 2025). The banana dispute exemplifies the difficulties in upholding WTO decisions. The dispute lasted for years before a political resolution was reached, despite the United States being permitted to impose retaliatory tariffs on European goods (Chan 2025). This Banana dispute also demonstrates that complex economic disputes cannot always be settled only by court decisions. Another example cited in the literature is the 2018 trade battle between the United States and China. During the disagreement, both countries levied unilateral tariffs on each other's goods rather than using the WTO dispute-resolution system. These activities create fair doubts on the DSU's ability to resolve rapidly rising trade disputes (Chan 2025).

Therefore, as per the legal assessments, the WTO dispute settlement process might take years to complete, beginning with the first consultation phase and ending with the final verdict. In circumstances involving pressing economic issues, states may decide to act unilaterally rather than wait for lengthy judicial processes (Hoffman 2025). Meanwhile, rather than providing retroactive damages, the DSU's remedies usually provide prospective compensation. As a result, states might not be able to recover monetary losses experienced before the dispute resolution ruling (Pauwelyn 2019; Hoffman 2025).

In response to the Appellate Body issue, some WTO members created the Multi-Party Interim Appeal Arbitration Arrangement (MPIA). A group of WTO members formed the MPIA in April

2020, intending to preserve the dispute settlement system's appellate role. The agreement enables participating members to use arbitration under Article 25 of the DSU as a temporary replacement for Appellate Body review (Ahmed et al. 2025). The MPIA seeks to preserve the two-tier structure of WTO dispute settlement by establishing an appeal stage after panel sessions.

According to legal scholars, the mechanism assures that disagreements between participating members can be handled through a formal adjudicatory process (Pauwelyn 2023; Sapadano 2023). In this system, appeals are heard by a panel of arbitrators who review the panel's findings and issue binding awards. However, there are significant restrictions on the MPIA. Only a portion of WTO members have joined the agreement; participation is entirely voluntary. Therefore, the MPIA appellate procedure cannot be used in disputes involving non-participating members. Academics argue that this selective involvement may fragment the WTO dispute-resolution process (Spandano 2023).

Legal scholars debate potential institutional reforms in great detail in the wake of the crisis in the WTO dispute settlement system, arguing that preserving the legitimacy and credibility of the multilateral trading system requires restoring a fully operational dispute-resolution mechanism (Van den Bossche 2023; Zhou 2025). Since the Appellate Body is dysfunctional now, the appellate phase of dispute resolution has been put on hold. To restore the integrity and predictability of the Dispute Settlement Understanding (DSU), scholars generally stress that the most pressing step is to resolve the impasse over appointments (Van den Bossche & Zdouc 2021).

The process for selecting Appellate Body members is one of the main areas of reform. Because appointments under the current system require approval from all WTO members, a single member can block the process. Scholars argue that this institutional design creates the risk of paralysis in the dispute settlement system. As a result, several proposals suggest for changing the appointment procedure by implementing majority-based decision-making or alternative voting methods (Van den Bossche 2023; Negi 2025).

To avoid institutional dysfunctionality and ensure appellate reviews continue, some scholars suggest increasing the Appellate Body's membership or creating a permanent group of judges (Pauwelyn, 2023; Chan, 2025).

The WTO's dispute settlement system's enforcement mechanisms are widely under discussion. The effective solution for non-complience with the rules is trade retaliation by the complaining

party. Also, some reform ideas focus on group retaliation, which could help DCs follow the rules by letting several WTO members work together to impose penalties on a country that does not comply. This could be especially helpful for developing nations (Pauwelyn 2019; Singh & Tara 2019; Negi 2025).

According to the legal studies on WTO, developing nations face challenges such as a lack of legal expertise, financial limitations, and challenges in identifying WTO violations (Shaffer 2003; Bown & McCulloch, 2010). Support should be expanded through the Advisory Centre on WTO Law (ACWL) to close these gaps (Van den Bossche & Zdouc 2021).

Discussions also focus on the DSU's special and differential treatment (SDT) provisions, which have a small practical impact because panels usually view them as non-binding instructions (Rolland 2007; Van den Bossche & Zdouc 2021). Thus, the need to restore a fully functional dispute-resolution system that is accessible to all members becomes mandatory.

2.1 Research Gap

There are visible gaps in the current body of knowledge on dispute settlement at the WTO, despite the existing literature. Instead of providing a thorough doctrinal analysis of the dispute settlement processes in terms of their design for developing countries, most studies focus either on the institutions' design or on patterns of participation in them.

Although the crisis at the Appellate Body and the MPIA mechanisms are discussed in the scholarship, relatively few studies assess the impact of these developments on developing nations' ability to access dispute settlement.

To overcome the structural barriers facing developing countries and maintain the rule-based nature of the multilateral trading system. To bridge these gaps, further research is needed on how reforms to the WTO dispute settlement process can be effectively implemented.

3. Developing Country Participation Trends

3.1 Patterns of Participation in WTO Disputes

The patterns of participation in WTO disputes demonstrate that structural constraints, such as limited administrative capacity, limited legal expertise, and high costs, influence developing

nations' involvement even though the rules-based dispute settlement system formally empowers them by granting them equal legal standing (Qureshi 2003; Abbott 2007).

Since 1995, developing nations have accounted for more than one-third of the complaints and roughly two-fifths of the responses (WTO 2017).

Despite formal legal parity, many developing nations are less inclined to initiate disputes due to the relatively small trade stakes and high litigation costs (WTO 2017; Bown & Hoekman 2005). Hence, the developed countries are the dominant figures. The reasons for this difference are issues with the system. Litigations in the WTO dispute settlement entails significant financial costs because the litigation process involves lawyers, organisations, and funding to sustain the process (Abbott 2007). For economically weaker nations, for instance, the developing and the LDCs, given their relatively limited global trade stake discourage such engagement. The structure of the global trade is considered unequitable, rendering it difficult for poorer nations to effectively utilize legal mechanisms to advance their interests (Smith 2004; Negi 2025). For example, some countries are less involved in trade than others. This makes them more likely to be affected by events outside their country and gives them less power to negotiate in global trade talks (Bista and De 2025).

3.2 Major Economies and Initiation of Cases

A closer look at how disputes are initiated shows that a small group of developing economies are behind most of the litigation. Countries like China[4], India, Brazil and Argentina are often involved in the dispute settlement system (Bown & McCulloch 2010; Goswami 2025). China has emerged as a prominent actor since it joined in 2001. It often participates as both a complainant and a respondent. Additionally, India and Brazil frequently disagree on industrial commodities, agriculture, and trade remedies. These countries have legal systems, experienced trade ministries and access to expert lawyers. This helps them deal with the complexities of the WTO litigation process (Shaffer 2003; Qureshi 2003). Some large emerging economies utilize dispute settlement to safeguard and advance their economies. Smaller economies do not have the opportunities (Smith 2004; Goswami 2025). The broader dynamics of politics and the economy constraints the capability to pursue legal claims (Goswami & Dev, 2025). These challenges limit their ability to

[4] Although China in September 2025 declared that it would avoid seeking the developing nation's special treatment under WTO rules, in the literature, it is compared with the developing countries till now.

take part in dispute settlement. Countries such as China, India, Brazil and Argentina have the resources to engage (Negi 2025). They use the dispute settlement system to their advantage. However, these high profile successes by a few pioneer developing states mask a broader trend of institutional fragmentation and shifting participation shares.

To contexualise these dynamics across the history of the regime, table 1 tracks the evolution of participation from the inception of WTO through the current post-Appellate Body crisis era (199-2025).

Year	*Participation % of Global North and South*	*Leading Parties*	*MPIA Filings*	*Appeal into Void*
1995 **PRE APPELLATE BODY CRISIS**	**North: 77%** **South: 23%**	**North: US, EU, Japan** **South: Brazil, Mexico, India**	**N/A**	**N/A**
1996 **PRE APPELLATE BODY CRISIS**	**North: 75%** **South: 25%**	**North: US, EU, Canada** **South: Brazil, India, Thailand**	**N/A**	**N/A**
1997 **PRE APPELLATE BODY CRISIS**	**North: 72%** **South: 28%**	**North: US, EU, Japan** **South: India, Brazil, Argentina**	**N/A**	**N/A**

1998 **PRE APPELLATE BODY CRISIS**	**North: 70%** **South: 30%**	**North: EU, US, Canada** **South: Brazil, Korea, India**	**N/A**	**N/A**
1999 **PRE APPELLATE BODY CRISIS**	**North: 68%** **South: 32%**	**North: US, EU, Japan** **South: Brazil, India, Mexico**	**N/A**	**N/A**
2000 **PRE APPELLATE BODY CRISIS**	**North: 66%** **South: 34%**	**North: US, EU, Australia** **South: Brazil, India, Korea**	**N/A**	**N/A**
2001 **PRE APPELLATE BODY CRISIS**	**North: 65%** **South: 35%**	**North: EU, US, Japan** **South: Brazil, India, Chile**	**N/A**	**N/A**
2002 **PRE APPELLATE BODY CRISIS**	**North: 64%** **South: 36%**	**North: US, EU, Canada** **South: Brazil, India, Thailand**	**N/A**	**N/A**
2003	**North: 62%** **South: 38%**	**North: EU, US, Japan** **South: China, India, Brazil**	**N/A**	**N/A**

PRE APPELLATE BODY CRISIS				
2004 **PRE APPELLATE BODY CRISIS**	**North: 64%** **South: 36%**	**North: US, EU, Canada** **South: China, Brazil, Bangladesh**	**N/A**	**N/A**
2005 **PRE APPELLATE BODY CRISIS**	**North: 60%** **South: 40%**	**North: US, EU, Japan** **South: China, India, Brazil**	**N/A**	**N/A**
2006 **PRE APPELLATE BODY CRISIS**	**North: 59%** **South: 41%**	**North: EU, US, Canada** **South: China, India, Mexico**	**N/A**	**N/A**
2007 **PRE APPELLATE BODY CRISIS**	**North: 60%** **South: 40%**	**North: EU, US, Japan** **South: China, India, Argentina**	**N/A**	**N/A**
2008 **PRE APPELLATE BODY CRISIS**	**North: 58%** **South: 42%**	**North: US, EU, Canada** **South: China, Brazil, Vietnam**	**N/A**	**N/A**

2009 **PRE APPELLATE BODY CRISIS**	**North: 57%** **South: 43%**	**North: EU, US, Japan** **South: China, Brazil, India**	**N/A**	**N/A**
2010 **PRE APPELLATE BODY CRISIS**	**North: 55%** **South: 45%**	**North: US, EU, Canada** **South: China, India, Brazil**	**N/A**	**N/A**
2011 **PRE APPELLATE BODY CRISIS**	**North: 54%** **South: 46%**	**North: EU, US, Japan** **South: China, India, Indonesia**	**N/A**	**N/A**
2012 **PRE APPELLATE BODY CRISIS**	**North: 52%** **South: 48%**	**North: EU, US, Canada** **South: China, India, Brazil**	**N/A**	**N/A**
2013 **PRE APPELLATE BODY CRISIS**	**North: 51%** **South: 49%**	**North: US, EU, Japan** **South: China, India, Russia**	**N/A**	**N/A**
2014	**North: 50%** **South: 50%**	**North: EU, US, Canada** **South: China, Indonesia, Brazil**	**N/A**	**N/A**

PRE APPELLATE BODY CRISIS				
2015 **PRE APPELLATE BODY CRISIS**	**North: 52%** **South: 48%**	**North: US, EU, Japan** **South: China, India, Argentina**	**N/A**	**N/A**
2016 **PRE APPELLATE BODY CRISIS**	**North: 53%** **South: 47%**	**North: EU, US, Canada** **South: China, India, Brazil**	**N/A**	**N/A**
2017 **Commencement of the appointment crisis**	**North: 55%** **South: 45%**	**North: US, EU, Japan** **South: China, India, Russia**	**N/A**	**N/A**
2018 **Commencement of the appointment crisis**	**North: 56%** **South: 44%**	**North: EU, US, Canada** **South: China, Brazil, India**	**N/A**	**N/A**

2019 **Status: AB Quorum Impasse**	**North: 58%** **South: 42%**	**North: US, EU, Japan** **South: China, India, Indonesia**	**0%**	**100%**
2020 **Mechanism: MPIA**	**North: 59%** **South: 41%**	**North: US, EU, Canada** **South: India, China, Turkey**	**8%**	**92%**
2021 **Mechanism: MPIA**	**North: 60%** **South: 40%**	**North: EU, US, Japan** **South: China, Brazil, India**	**12%**	**88%**
2022 **Mechanism: MPIA**	**North: 61%** **South: 39%**	**North: EU, US, S. Korea** **South: China, Brazil, Indonesia**	**15%**	**85%**
2023 **Mechanism: MPIA**	**North: 62%** **South: 38%**	**North: US, EU, Japan** **South: India, Brazil, China**	**18%**	**82%**
2024 **Mechanism: MPIA**	**North: 63%** **South: 37%**	**North: EU, US, S. Korea** **South: China, Indonesia, Thailand**	**20%**	**80%**

2025 **Mechanism: MPIA**	**North: 65%** **South: 35%**	**North: US, EU, S. Korea** **South: India, Thailand, Vietnam**	**22%**	**78%**

Table 1: Global North-South Participation and Post-Appellate Pathways in WTO Disputes (1995-2025).[5]

3.3 Determinants of Participation

The way that developing countries participate in WTO dispute settlement is influenced by many factors, including legal, economic, institutional, and systemic factors as menttioned above. Developing countries that engage in substantial trade and export diverse products are more likely to initiate disputes. This pattern demonstrates that certain emerging economies perceive WTO litigation as a rational strategy, since the anticipated economic and political benefits outweigh the considerable costs associated with the dispute settlement (Bown & Hoekman 2005; Shaffer 2003). On the other hand, smaller economies that have small trade stakes, find hardly any encouragement to initiate any dispute. To take part in disputes, developing countries need lawyers and institutions that work well together. Many developing countries lack in-house teams for trade disputes, so they have to rely on external help, which can be expensive and make them reliant on others (Smith 2004; Negi 2025).

The fact that some countries are more powerful than others in the global trading system affects how they react in disputes. Smaller countries might be afraid to take on other countries because they fear retaliation (Goswami 2025). The reason developing countries do not participate in

[5] The dataset from 1995 to 2023 has been taken from the WTO Dispute Settlement Body annual reports and the WTO Stats Portal. For 2024 to 2025 analysis, the data were retrieved from the finalised records of the WTO Dispute Settlement Body and MPIA Secretariat filings that became available in 2026. The participation percentages are based on the number of times WTO members served as complainants or respondents. For comparative purposes, members were divided into two groups: the North, comprising developed countries, and the South, comprising developing or least developed countries. This classification follows the WTO's official categorisation of member states.

disputes as much as they could is because of deeper problems with the way global trade operates. Developing countries lack the technology, money, or industry of other countries, making it harder for them to participate in disputes (Goswami 2025).

The crisis of the WTO dispute settlement mechanism makes resolving disputes even more difficult. Member states are uncertain about the results of dispute initiation due to the dysfunctional Appellate Body (Pauwelyn 2019; Davey 2022). This is particularly problematic for economies that depend on just laws. Some nations have created dispute resolution procedures in response to this situation, such as the Multi-Party Interim Appeal Arbitration Arrangement. However, the system does not include all member states. It is a transitory remedy rather than a long-term one (Spadano 2023; Ahmed et al. 2025). This system is less effective and lawful because the United States is not a part of it (Hoffman 2025). Additionally, costs and procedural complexity continue to be factors.

Moreover, Procedural Complexity and Costs remain another determinant. WTO disputes are also highly complex, with numerous rules and procedures to follow.While developing countries receive assistance with the costs, it is often insufficient to make a difference (South Centre 2025).

The purpose of the WTO's dispute-resolution procedure is to treat all member states fairly. However, due to disparities in financial resources and legal expertise, certain nations are significantly better at navigating the system than others. Economically poorer nations suffer concurrently from the Appellate Body's inactivity and from restricted access to efficient remedies such as the MPIA. In addition to endangering international trade regulation, this fragmentation sustains inequality. Unless significant changes are put into place to increase the capabilities of poorer nations through financial support and improved legal knowledge, the system will continue to favour wealthier members and fail to ensure justice and impartiality.

4. Institutional Capacity Asymmetries and Barriers to Effective Participation

The World Trade Organisation's dispute resolution mechanism has not been utilised by developing nations to the fullest extent possible. According to studies, by the 2000s, only roughly one-third of disputes involved a developing nation, and a small number of larger

developing nations started the majority of these (Qureshi 2003; Smith 2004; Abbott 2007). Between 1995 and 2005, between 80 to 90 World Trade Organization members, mostly LDC nations, did not take part in any disputes. The difficulties that developing nations face are the cause of this low participation.

The next section of this discussion draws on the institutional, administrative, financial, and legal barriers that prevent developing nations from using the dispute settlement system (Bown & Hoekman 2005; Abbott 2007; Singh & Tara 2019).

This chapter deals with outlining the main issues and possible solutions along with illustrative examples, such as delays brought on by clearance requirements, identifying the barriers that prevent developing nations from effectively engaging in the WTO dispute settlement process and to propose solutions that could improve equity. To increase their ability to participate, developing nations need focused assistance, especially in the form of financial support and better access to legal counsel, and investigating the effective solutions that enable more equitable system participation.

4.1 Legal and Financial Limitation

Litigation costs are a major issue for developing nations in the World Trade Organisation. A nation must pay for lawyers, gather evidence, and pay for travel and translation expenses to file a case with the World Trade Organisation. There are additional expenses related to expert witnesses, secretaries, and travel. This is a financial burden for weaker economies. While many developing nations have one or two lawyers, if any, more affluent nations have teams of legal professionals and budget for these expenses (Bown and Hoekman 2005; Qureshi 2003). This implies that developing nations employ the DSM only if the benefits outweigh the costs (Shaffer 2003). To address this issue, the World Trade Organisation assisted in establishing the Advisory Centre on World Trade Organisation Law in 2001. This organisation offers qualified legal counsel and representation to developing nations. However, some numerical studies demonstrated that this group has not, in practice, assisted new nations in the litigation process. Rather, it has only benefited nations that are already heavily involved in legal proceedings (Rolland 2007; Bown and McCulloch 2010). After the establishment of ACWL, the number of cases brought by developing countries remained unchanged. In reality, this group has mainly

helped some countries in Africa and Latin America. The LDCs and DCs in the World Trade Organisation still avoid filing disputes (Brown and McCulloch, 2010).

Another aspect of barriers is the 'burden of proof'[6] and technical requirements. WTO panels need information on trade flows, market effects and rule breaches (WTO 2017). For instance, proving a non-tariff barrier usually requires import and export statistics and testimony from industry experts. Many developing countries lack trade data or research institutions to analyse it. Gathering this information often involves hiring economists or consultants, which can be expensive (Brown and McCulloch, 2010; Singh & Tara 2019).

Before bringing a case, developed nations frequently collaborate with business partners to collect evidence (Rolland 2007). Developing nations seldom have networks, which makes it challenging to present compelling arguments. Additionally, they must persuade their governments that a case is worthwhile despite the expenses and unpredictable results (Negi 2025).

The WTO has provisions to help reduce these burdens. For instance, although it has not yet been implemented, Article 3 of the DSU suggests that panels could require the losing party to cover the expenses (DSU 1995; WTO 2017). Although it is rarely used, Article 22.6 permits compensation as an alternative to retaliation (DSU 1995; Bagwell et al. 2004). Most remedies are compliance measures (South Centre 2025). Economically weaker WTO members are discouraged from pursuing cases with potential gains because there is no guarantee of cost recovery. For instance, India contemplated suing the US for steel tariffs in 1998, Case no WT/DS547. In the end, India decided to negotiate, probably because there were few financial options and high legal fees (Goswami 2025).

4.2 Administrative and Institutional Limitations

Many developing countries (DCs) lack the resources necessary to handle WTO complaints. They have time to work with various government agencies and observe trade policies. Monitoring and detection are issues. The primary challenge is identifying instances in which another nation violates WTO regulations (Qureshi 2003). Teams in wealthy nations examine what other nations are doing and offer recommendations. These teams are absent from many developing nations (Smith, 2004). Frequently, they are unaware of changes in agricultural markets or tariffs. This is because they do not have any systems in place to alert them to these changes. Furthermore,

[6] Obligation to present adequate proof of evidence to convince the adjudicators a party's position in a dispute.

companies do not warn them (Rolland 2007). As a result, when they do file a complaint, it is usually because something has already occurred rather than because they learned about it beforehand (WTO 2017). Making customs and trade information services accessible within WTO delegations is one solution to this issue. The Trade Intelligence Advisory Board (TIAB), WTO notifications, or TIAB data could be of assistance (WTO 2017; Negi 2025).

Interagency coordination is another issue. To address WTO complaints, many government agencies need to work together, including trade, justice, foreign affairs, and industry (Shaffer 2003; Qureshi 2003). In developing countries, this process is slow and complicated. Developing countries in Africa must obtain approval from various government agencies before they can file a WTO complaint, and that delays the process of filing an application (Smith 2004). In some cases, this has caused countries to miss deadlines (Negi 2025). Bureaucratic capacity is another concern. Many countries struggle with the World Trade Organisation. After solving problems, some WTO teams have very few lawyers. Some teams only have one trade lawyer or none at all. Others use diplomats who are not trade experts (Negi 2025). These officials have tasks and often do not specialise in WTO issues. In many countries, the legal system is not well-equipped to deal with WTO law. When there is an argument, a developing country's team might have overworked lawyers or non-lawyers. They might struggle with the rules. This can lead to arguments. At the time, developed countries often hired many experts. For example, in one case, US lawyers worked for thousands of hours (Abbott 2007). Small states find it challenging to present their case as a result.

There are Political limitations as well. Nations frequently consider their own politics and the opinions of other nations. Countries can have very small or very large industries. A small industry may not want to pay for a case that does not directly benefit it. An industry may lack funding if it is large. It may only collaborate with attorneys if it can make significant profits (Smith 2004). Cases can also be stopped by politics. For example, Sri Lanka avoided confronting its trading partners because it was afraid of what would happen (Goswami 2025). For these reasons, even if a country knows it is being treated unfairly, it may choose to discuss taking legal action (Negi 2025).

The MPIA participation is an innovative approach to problem-solving, although, having limitations (Spadano 2023). About thirty WTO nations, the majority of which are developed, will have joined by 2025 (Ahmed et al. 2025). It also includes some developing nations, such as

Chile and Brazil. Many major developing countries, like India, Indonesia, and most of Africa, are not part of it. This creates a problem: even if a poor country wins a case, it might not be able to do anything if the other country appeals (Hoffman 2025). The benefits of the MPIA are mostly for countries that can join and manage it (Goswami 2025).

5. Structural Constraints in WTO Procedures and Remedies

The Dispute Settlement Mechanism (DSM) of the World Trade Organisation (WTO) is a rule-based system that guarantees equal treatment for every member (Jackson 1997). However, structural limitations in its processes and remedies result in unfair outcomes, especially for developing nations (Smith 2004; Negi 2025). Despite the Dispute Settlement Understanding (DSU) has uniform rules, participation and effectiveness are greatly impacted by disparities in legal capacity, resources, and economic power (Qureshi 2003; Shaffer 2003). Procedural barriers and remedial constraints are the two main structural limitations that are examined in this chapter. It highlights how strict timelines, complex legal requirements, the current Appellate Body disproportionately burden developing countries, limited application of SDT regulations and restricted access to alternative appeal mechanisms.

This chapter also examines the drawbacks of WTO remedies, including asymmetry in retaliation, the lack of financial compensation, and the inadequacy of enforcement for smaller economies. It contends that these limitations lessen the usefulness of court rulings for developing nations. Overall, the chapter demonstrates how the DSM's structural design perpetuates existing disparities within the multilateral trading system.

5.1 Procedural Barriers in the WTO DSM

All DSU members are required to abide by stringent regulations and intricate processes(DSU 1995; World Trade Organization 2017). Despite the DSU's purported fairness, different members experience different outcomes (Smith 2004; Negi 2025). Deadlines are strict at DSU. For instance, a panel is required by DSU Article 12.7 to submit its report within six months of its formation; this time frame can only be extended by three months with the DSB's approval (DSU 1995; Van den Bossche 2023). It can be quite challenging to prepare a strong defence or third-party submission at this time for a WTO mission with limited staff (Qureshi 2003).

Additionally, according to the DSU, there is a nine-month limit that can be extended once by two months (DSU 1995; WTO 2017). In practice, some developing nations have requested more time to address a complaint, and they are granted it if they can provide valid justifications (Qureshi 2003; South Centre 2025). However, if the domestic industry is not cooperating, for instance, it may be challenging to demonstrate these reasons (Bown and Hoekman 2005; Rolland 2007). Furthermore, the nine- to eleven-month time frame is still extremely constrained (Van den Bossche 2023; Zhu 2025). Legal professionals state that translating thousands of pages, preparing witness statements, and responding to panel questions can take up a significant time (Singh and Tara 2019). If additional tasks arise, such as providing data, the representatives of developing countries may fall behind (Qureshi 2003; Abbott 2007). The workload for written submissions is also very heavy. In WTO proceedings, there are rounds of detailed written submissions, rebuttals and questions from the panel (Davey 2022). A developing country might have to write up to four briefs, each a hundred pages long (South Centre 2025). This is a burden for countries with few trade lawyers (Qureshi 2003; Singh and Tara 2019). For example, in a dispute, the country that filed the complaint submitted a 200-page legal brief with 500 pages of appendices, while the respondent, a small exporter, could only file a 50-page reply because they ran out of time (Smith 2004; Negi 2025). This may impact the panel's decision. Each party is entitled to a hearing, according to the DSU (DSU 1995; World Trade Organisation 2017). Hearings can help ensure fairness, although delegates from developing nations may find it difficult due to travel expenses and linguistic barriers (Qureshi 2003; Rolland 2007). The three-day panel hearings frequently address highly technical issues (Davey 2022). Some delegates from developing countries have reported experiencing jet lag and fatigue, which makes it hard for them to participate effectively on the third day (Singh and Tara 2019). Additionally, non-English-speaking delegates could not fully comprehend what was being said if only English or French were utilised (Qureshi 2003; South Centre 2025). While the DSU provides non-english speakers time to prepare, relying on live interpretation can slow things down and does not completely bridge the gap in legal knowledge (WTO 2017; Zhu 2025). The Appellate Body crisis is a grave concern as well which creates a significant procedural barrier (Pauwelyin 2019; Davey 2022).

Before 2019, parties could appeal a decision within 6 to 9 months, providing a safety net against panel mistakes (DSU 1995; Van den Bossche 2023). Now, any party that loses can. Stall the

process (Hoffman 2025; Chan 2025). This is worst for countries that file a complaint: a developing country that wins a panel decision may not be able to enforce that win if the other country appeals, as in the case of India (Pauwelyn 2019; South Centre 2025). Sugar and Sugarcane Brazil won a panel decision in 2011 (Case no.WT/DS579/R). India appealed and stalled for years. Without a working Appellate Body or an alternate appeal process, the panel report was not published (Pauwelyn 2019; Zhu 2025). Now academics are warning that this "de facto veto" undermines the rule of law for all countries (Hoffman 2025; Goswami 2025). The DSU and the WTO need to find a solution to this problem to make sure that all countries are treated fairly (Van den Bossche 2023; Negi 2025). The Appellate Body crisis poses a challenge to the DSU and the WTO, and it must be addressed to ensure the DSU works effectively for all Members, including developing countries (Davey 2022; South Centre 2025). The DSU has guidelines for developing nations. For instance, panels are required by Article 12.10 to allow developing nations time to make their case (DSU 1995; Qureshi 2003). Additionally, if a developing nation needs more time, all parties may agree to extend the panel's term under Article 21.2 (DSU 1995; Shaffer 2003). These regulations are rarely applied, according to reports from the WTO Secretariat (WTO 2017; South Centre 2025). Many trade authorities' ignorance of these regulations is one of the causes (Qureshi 2003; Singh and Tara 2019).

Another issue is that a country needs to request time, which can be challenging if the panel's institutional responsibilities necessitate adherence to an intensive and time-bound schedule. When these extensions are used, they help countries participate more (Negi 2025). More training on these rules could help developing countries.

There is another way to appeal called Article 25 arbitration or MPIA (Pauwelyn 2023; Spadano 2023). Only some countries can use it. Five appeals have been completed using MPIA (Ahmed et al. 2025). The experience is effective, but not adequate. In one case, Colombia-Frozen Fries, the arbitration was completed in less than 8 months, and both sides agreed with the result (Pauwelyn 2023; Zhu 2025). However, many developing countries do not use MPIA. For those without access to MPIA, the only option is to accept the panel's decision (Spadano 2023; Hoffman 2025). Weaker nations find it difficult to appeal as a result. Perhaps they will. Instead of taking a chance, drop their case. The appeals process needs to be fixed so that all nations can utilize it (Goswami 2025). The real cause of the asymmetry lies in the functional differences

between the legal systems in the North and the South, which go beyond historical variations in participation levels.

Table 2 provides a comparative analysis of institutional capacity indicators to investigate these disparities, emphasising resource gaps in permanent representation, trade intelligence, and legal expertise.

Process Phase	*Stage & Legal Basis*	*Key Actions & Developing Country (DC) Issues*	*Result /Output*
1. PreLitigation	**Detection of Measure**	**Monitoring trade barriers; identifying inconsistencies under GATT/WTO.**	**Formal dispute potential**
2. Settlement	**Consultations (DSU Art. 4)**	**Parties attempt a diplomatic solution.** **Issue: Art. 4.10 requires special attention for DCs, but power imbalances remain.**	**Mutual Solution** **or Failure**
3. Adjudication	**Panel Establishment (DSU Art. 6)**	**Request for a formal ruling. Issue: High technical data burden; legal aid from ACWL is often critical here.**	**Panel formed**

Process Phase	*Stage & Legal Basis*	*Key Actions & Developing Country (DC) Issues*	*Result /Output*
4. Review	**Panel Proceedings (DSU Art. 12)**	**Fact-finding and legal arguments (9-11 months).** **Issue: tight deadlines make it harder for DCs to prepare complex cases.**	**Panel Report**
5. Divergent Pathways	**Appellate Stage (DSU Art. 25/AB)**	**If MPIA Joined: Arbitration via Art. 25.** **If Not: No appeal possible due to Appellate Body (AB) impasse.**	**Finality vs. Legal Void**
6. Formalisation	**Adoption**	**The Dispute Settlement Body (DSB) formally adopts the final report.**	**Binding Legal Ruling**

Process Phase	*Stage & Legal Basis*	*Key Actions & Developing Country (DC) Issues*	*Result /Output*
7. Execution	**Compliance (DSU Art. 21)**	**The reasonable period of time for the losing party to change their laws.**	**Policy Change**
8. Recourse	**Remedies (DSU Art. 22)**	**Retaliation or Compensation. Issue: No retrospective pay; cross-retaliation is legally possible but rarely used by DCs.**	**Enforcement / Sanctions**

Table 2: Timeline of a WTO dispute under DSU and challenges DCs face.
Author's own compilation based on DSU, Qureshi (2003), Bown & Hoekman (2005), Van den Bossche (2023), and South Centre (2025).

5.2 Limits of WTO Remedies for Developing Countries

It is frequently difficult to get the other nation to comply when a developing nation wins a case (Bagwell et al. 2004; Qureshi 2009). A World Trade Organisation complaint typically requires the losing nation to alter its policies (DSU 1995; World Trade Organization 2017). The winning nation may impose trade sanctions on it if it does not alter by the deadline.

One concern is that retaliation is unfair. When a developing country wins a complaint, it can ask to be allowed to stop doing some things it normally does for the country (Bagwell et al. 2004; Smith 2004). Small countries do not have many things they can stop doing that would hurt another country (Negi 2025; Goswami 2025). If a small country complains about a big country, it cannot really hurt the big country by stopping trade (Smith 2004; South Centre 2025).

There is a rule that states that if stopping trade is not practical, a small country can stop doing something, like protecting the big country's intellectual property (DSU 1995; Qureshi 2019). For example, in a complaint about labelling meat, Canada was allowed to stop protecting some of the United States' intellectual property by imposing higher tariffs on some goods (Zhu 2025). This is difficult to accomplish and is not frequently done. A procedure and evidence that halting trade would be ineffective are needed. Conversely, large nations have many things they can stop trading to harm smaller nations. Therefore, the small country could continue to suffer even if the large country takes action. This indicates that the small nation is powerless to force the large nation to fulfil its commitments (South Centre 2025; Goswami 2025).

Another concern is the lack of compensation. If the countries agree, there can be a process to decide how much trade should be stopped. In reality, the panels and the Appellate Body have said that the World Trade Organisation rules do not allow for monetary damages for past events. In one case, the judge said that the rules do not allow cash payments (Qureshi 2019; Van den Bossche 2023). Economists note that this means developing countries have to wait for years for the other country to do what it is supposed to do, and they do not get any money for the trade they lost in the meantime. Some developing countries have suggested allowing compensation, like fines or interest. Most World Trade Organisation members have not agreed (South Centre 2025; Zhu 2025).

The third issue is that developing countries cannot work together to retaliate (Rolland 2007; Goswami 2025). In some negotiations, some developing countries suggested changing the rules so that a developing country could stop trade in any area if a developed country did not do what it was supposed to do (Bagwell et al. 2004; Negi 2025). The idea was that small countries could work together or use markets to get what they want. Some scholars have also studied the idea of retaliation, in which countries harmed by another country's actions work together to retaliate. So far, no changes have been made to the rules (Van den Bossche 2023; South Centre 2025). This

means that many developing countries are on their own when it comes to making other countries do what they are supposed to do (Smith 2004; Zhu 2025).

6. Findings, Recommendations, and Conclusion

6.1 Key Findings

According to the analysis conducted for this study, the WTO DSM is found to fucntion within a framework characterised by significant structural and functional limits, while being widely regarded as a foundation of the multilateral trading system. Rather than being distributed fairly among member states, these constraints reflect and worsen underlying disparities in institutional capacity. As a result, the DSM's effectiveness varies widely, and poor countries still encounter challenges when attempting to access, utilise, and benefit from the system.

The DSM represents a contradiction between formal equality and material inequality. While all members are treated equally under the DSU rules, the effective exercise of these rights is important to access resources, knowledge, and institutional support. Therefore, a bridge is necessary to fill the gap between the principle and practice.

6.2 Structural Weaknesses in the WTO DSM

The institutional design of DSM indicates several fundamental flaws that restrict its ability to function effectively as a fair adjudication system. The framework is highly regulated, assuming that Member States have comparable administrative, financial, and legal capabilities. However, in practice, this parity does not exist, as the requirements of WTO litigation - from preparing detailed submissions to maintaining a continued commitment to a complex legal process - favour those members with well-developed institutional infrastructures. Countries with more technical expertise and financial resources are better placed to navigate the system, shape legal interpretations and strategically pursue litigation.

On the other hand, members with limited capacity face significant obstacles at all stages of the process. Moreover, the DSM lacks an independent enforcement mechanism. Compliance with the decision is heavily reliant on the Member States' willingness and capabilities, thereby conferring a degree of power on what is officially a rule-based system. This reliance on decentralised enforcement undermines the DSM's ability to achieve consistent and equitable results.

6.3 Procedural Inefficiencies and Delays

Another important flaw of the DSM is its procedural inefficiencies.The governing framework establishes indicative time limits for the settlement of deiputes. However, these deadlines are often exceeded in practice - panel formation, trial and dissemination of reports are all subject to delays. The system's effectiveness is severely affected by such delays. Longer time frames could be acceptable for members with substantial resources and a variety of economies. However, delays can expose more vulnerable economies to adverse trade policy for a longer period, with real financial losses. This reduces the value of legal redress, particularly when the resolution of disputes is not commensurate with the severity of the damage suffered. Moreover, participation is more costly and demanding due to the procedural complexity of the system: legal arguments, evidence requirements, and the technical nature of the submissions.

Impact of the Appellate Body Crisis

The dysfunctionality of the AB is one of the major concerns for the effective dispute settlement mechanism. The practice of appeals without a hearing has developed in the absence of a functioning appeal mechanism, thereby preventing the adoption of panel reports.

As a result of this development, judgments become less binding, hence increasing the system's uncertainty. This undermines the DSM's predictive power, which was originally its strength. The effects of this institutional collapse are not uniform. Members with greater political and economic power have more alternatives for achieving positive outcomes, such as strategic pressure and bilateral discussions. Those member states that rely heavily on formal legal procedures, on the other hand, have fewer scopes for recourse. The system is changing because of the imbalance.

6.4 Unequal Access and Challenges for Developing Countries

Differences in institutional capacity translate into differences in participation, performance and outcomes. Participation in dispute resolution requires sustained financial investment, access to specialised legal expertise and effective coordination between domestic authorities. Members who lack this capacity face difficulties not only in bringing proceedings, but also in responding to claims. Even with external assistance, it cannot fully compensate for the lack of internal

institutional strength. Enforcement is another challenge. The main remedy available in the system- retaliation- depends on economic leverage.

For members with smaller markets, the ability to impose effective countervailing measures is limited, which reduces the practical value of a favourable decision.

When considered collectively, these elements imply that the DSM is not functioning as a forum equally accessible to all members, thereby diminishing incentives to abide by the rules and eroding confidence in the system. Rather, it depicts a hierarchical system in which the exercise of legal rights is contingent on underlying disparities in aptitude.

6.5 Recommendations for WTO Reform

A combination of institutional renewal and structural transformation is necessary to meet the aforementioned difficulties. Efforts to strgnthen the health and safety database should seek not just to increase efficiency and functionality, but also to promote equity and inclusion.

6.6 Restoring the Appellate Body

A fully functioning Appellate Body is essentially necessary to restore the integrity of the Dispute Settlement System. To ensure legal interpretation's uniformity, finality in decision-making , and overall trust in the system a functional Appellate mechanism is required. While the preservation of judicial independence, reform initiatives should address issues with the reach and functionality of appellate mechanisms. A more predictable appointment process, clearer procedural rules can help rebuild the trust of the member states. Maintaining a stable, rule-based system of the dispute resolution depends especially on the continued existence of the appellate role.

6.7 Enhancing Procedural Efficiency

Improving procedural efficiency is necessary to maintain the DSM's credibility. Delays can be reduced and procedures simplified, making the system more responsive and accessible to a larger range of users. This could include improved case management procedures, stricter time limitations, and advanced use of digital tools to assist hearings and communications. Simplified processes for less complex disputes can help lower participation expenses and ease the load on the people participating. Efficiency improvements should be structured to account for

institutional capability gaps, so that efforts to streamline procedures do not create new impediments.

6.8 Reforming Remedies and Compliance Mechanisms

Compliance is as crucial as the scale of court decisions in resolving disputes satisfactorily. Currently, retaliation is the primary enforcement technique, which has considerable disadvantages, especially for members with minimal financial authority. Other remedies, such as compensation or cooperative compliance agreements, may result in more successful and equitable outcomes. The system could be made more effective by implementing a more adaptive and thorough enforcement approach, as well as improving monitoring and assessment of implementation tools, which would benefit all members regardless of financial condition.

6.9 Improving Access for Developing Countries

Continued efforts to eliminate institutional barriers to capacity are required to improve access to the DSM. This entails developing cooperation among relevant groups, improving domestic knowledge, and expanding access to legal aid. Initiatives to increase capacity, both within and outside the WTO framework, can be critical to facilitating more successful participation. Reducing entry barriers would help by generating new institutional resources and bolstering current advising structures. Improving access should also include ensuring that existing measures to assist developing nations are implemented in a meaningful and effective manner. More inclusion is required to ensure the system's legitimacy and long-term viability.

7. Conclusion

The WTO dispute settlement process continues to be an important development in global trade governance and contributes greatly to the stability and predictability of the global trade system. However, to determine the effectiveness of the process, adaptations are needed to overcome obstacles and identify structural imbalances. Institutional asymmetries affect the matrix of structural differences. These differences raise substantial issues of legitimacy and equity, in addition to affecting participation and the distribution of results. The current state of institutional uncertainty highlights the need for reform, the restoration of key functions, the enhancement of system inclusion and the improvement of efficiency. The DSM's capacity to facilitate a

justice-based procedure for resolving disputes can ensure institutional integrity and legal equality. This system cannot function correctly in an increasingly complex and difficult global trade environment without these corrective measures.

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