



WORLD TRADE
ORGANIZATION



WTO | 20 YEARS

*Resolving trade disputes
between WTO members*

**WTO
DISPUTE
SETTLEMENT**

Did you know?

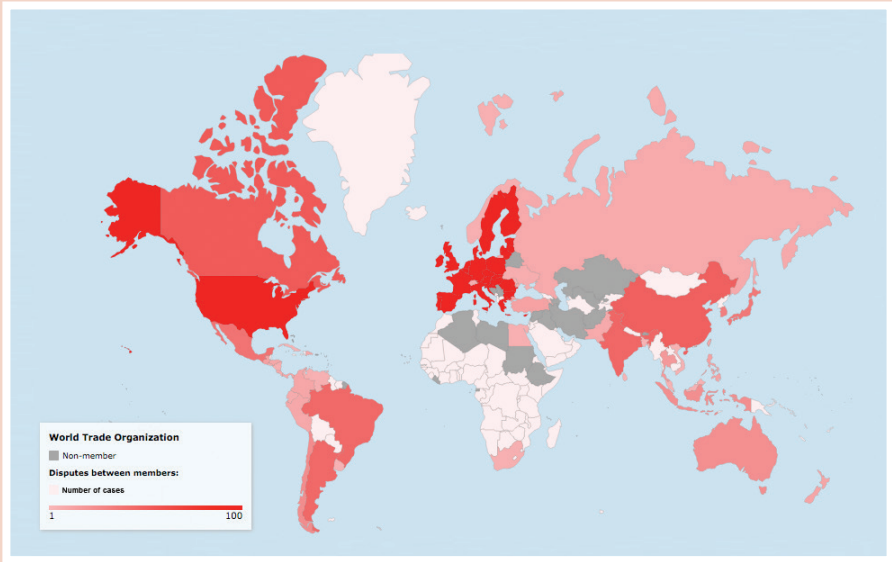
Over the past 20 years, nearly 500 disputes have been brought to the WTO. About half of these were resolved during bilateral discussions while the other half proceeded to a panel process, which in recent years generally takes about 14 months. Appeals are considered by the WTO's Appellate Body and – excluding exceptionally busy periods – are completed within three months. This makes the WTO's dispute system one of the fastest in the world.



Disputes between WTO members

By the end of 2014, a total of 488 disputes had been brought to the WTO. The map below shows the members that have been most active in the dispute settlement system since the establishment of the organization.

Chart 1: Number of disputes between WTO members



488

Number of
disputes brought to
WTO by end 2014

Rules and procedures

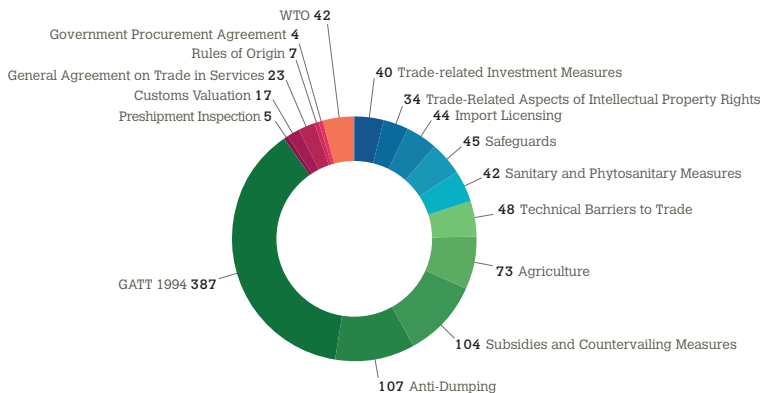
The WTO's dispute settlement system has as its foundation the rules, procedures and practices developed under the General Agreement on Tariffs and Trade (GATT) 1947. However, it improves upon the previous system in a number of ways, including by being more accessible. This is shown by the increased participation of developing countries.

The dispute settlement system follows specific and detailed timetables for completing the examination of a case. This first takes place by a group of three panellists who are specially selected for the case. Their findings are published in a report which may be appealed by the members concerned. Appeals are considered by the WTO's Appellate Body, which consists of seven members elected for a four-year term.

The rules and procedures of the WTO's dispute settlement system are set out in the Dispute Settlement Understanding (DSU), which is administered by the Dispute Settlement Body (DSB), consisting of representatives of all WTO members.

When lodging a complaint, WTO members are required to specify which WTO agreements are allegedly being violated. The agreements most commonly referred to are shown in Chart 2.

Chart 2: WTO agreements covered by members' complaints, 1995-2014



Using the dispute settlement system

Only governments and separate customs territories that are members of the WTO can participate directly in dispute settlement as parties to the case or as third parties. Under WTO rules, a member does not have to demonstrate that it has a specific legal or economic interest in the subject matter of a dispute. For instance, in the “EC – Bananas” disputes – the longest disputes in WTO history – the United States complained that the European Union (EU) gave banana producers from African, Caribbean and Pacific (ACP) countries preferential access to European markets, in violation of WTO non-discrimination rules, even though the United States was not itself exporting bananas to the EU. However, in most cases the member making the complaint is directly affected by the action of the member being challenged.

A formal complaint by any member automatically begins the dispute settlement process. This first stage is known as a “request for consultations” as the members concerned will initially try to resolve the dispute by consulting with one another. If this fails, a dispute panel is established to examine the case.

The dispute settlement system is accessible not only to developed WTO members but also to small developing members. In fact, the DSU contains provisions specifically aimed at helping developing members participate in dispute settlement. To date, around half of the complaints brought before the WTO have been initiated by developing members (see Chart 3).

Chart 3: Use of the Dispute Settlement Mechanism



An efficient and transparent system

The DSU allows for the possibility of establishing a single panel where more than one WTO member has complained about the same issues. These efficiencies are appreciated by members, who may collaborate in preparing their cases, and allows the disputes to be examined more quickly.

Rules-based system

Under the rules of the dispute settlement system, WTO members have agreed to bring their disputes to the WTO rather than take action unilaterally in cases where they believe that another member is violating WTO rules. The DSB must automatically establish panels to examine the complaints and adopt the findings of the panels and the Appellate Body unless the WTO members agree unanimously at the DSB meeting not to do so. This is known as the “reverse consensus” rule and ensures that the political weight of parties does not affect the outcome of the disputes.

Panels and, where necessary, the Appellate Body examine whether a member's actions violate the specific WTO provisions identified in the complaint. The complaining member is generally not required to prove negative trade effects resulting from the alleged violation.

Finding a positive solution

The WTO dispute settlement system encourages amicable settlement rather than the winning of cases. More than half of all disputes lodged with the WTO have been settled amicably without the need for a dispute panel. The DSU also states that the Director-General can assist members in settling their disputes through his “good offices”, mediation or conciliation.



Complying with dispute settlement rulings

WTO members comply with the rulings of the dispute settlement system in about 90 per cent of cases. Compliance may take some time, however, if the member's parliament or congress needs to change or abolish the measure in question to bring it into conformity with the relevant WTO agreement.

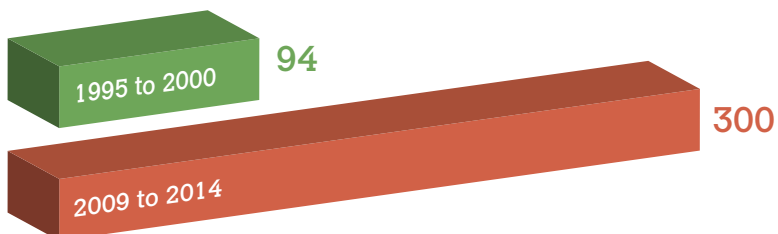
The member is generally given a "reasonable period of time" – ranging from eight to 15 months – to implement the dispute settlement rulings. During the implementation period, the member who is required to comply with the rulings must provide a status report at each meeting of the DSB.

If the member does not bring its measures into conformity with the relevant WTO agreements within the allotted time, the complainant may request the DSB to authorize retaliation in the form of trade sanctions, such as restrictions on imports, for an amount equivalent to the level of trade affected by the offending measure. The DSB continues to keep the member's compliance efforts under review, even when retaliation has been authorized. If there is disagreement about compliance, the matter remains on the agenda of the DSB.

Workload

WTO disputes have grown in complexity in the last few years. Dispute panels and the Appellate Body have to deal with an expanding body of case law and an increasing volume of complex technical evidence, as indicated in Chart 4. This trend can be expected to continue. To deal with this additional workload, more than 20 dispute settlement lawyers have been recruited over the past two years to assist dispute panels and the Appellate Body.

Chart 4: Average number of exhibits submitted to panels
1995-2000 vs 2009-2014



Conclusions

The regular use of the WTO's dispute settlement system by both developing and developed members is a clear indication that the system is working and that WTO members continue to have trust in it. The system plays a crucial role in ensuring that WTO agreements are respected. This in turn leads to more harmonious trade relations between members and promotes economic growth.

Further information on dispute settlement

WTO publications can be purchased from the WTO Online Bookshop and from a worldwide network of distributors.



Dispute settlement information on the WTO website
www.wto.org/disputes