

GLOBAL TRADE LAW SERIES

**WTO LITIGATION,
INVESTMENT ARBITRATION,
AND COMMERCIAL
ARBITRATION**

Edited by
**Jorge A. Huerta-Goldman,
Antoine Romanetti &
Franz X. Stirnimann**

Wto Litigation

Elena Ivanova



Wto Litigation:

The GATT/WTO Dispute Settlement System Ernst-Ulrich Petersmann, 2024-01-22 The GATT and WTO dispute settlement systems have become the most frequently used international mechanisms for the settlement of trade disputes among governments The 1994 Agreement Establishing the WTO introduced a historically unprecedented new dispute settlement procedure for conflicts involving trade in goods and services trade related investment measures and intellectual property rights This procedure provided for the compulsory jurisdiction of the WTO Dispute Settlement Body WTO Panels and the WTO Appellate Body The first 18 months from the time the WTO Agreement came into force on 1 January 1995 witnessed more than 50 invocations of the new dispute settlement procedures by a large number of countries including many from the developing world This large response and the proposals for further extending the scope of WTO law suggest that the WTO dispute settlement system will continue to be the most frequently applied worldwide systems for the legal settlement of trade disputes among governments This book provides students lawyers and diplomats a thought provoking and practice oriented analysis of the GATT WTO dispute settlement rules procedures and problems The Annexes include a useful collection of relevant texts and tables of past GATT and WTO case law

Practical Aspects of WTO Litigation Marco Tulio Molina Tejada, 2020-07-08 Global Trade Law Series Volume 54 The World Trade Organization WTO Dispute Settlement Understanding DSU entered into force in 1995 Since then it has spawned an extensive body of jurisprudence making it a highly complex system to navigate This book provides the first in depth practical guide to resolving a dispute at the WTO edited by an international lawyer who has on hands experience in WTO litigation Contributors of individual chapters include government officials responsible for WTO dispute settlement from developing and developed countries WTO Secretariat officials a former member of the Appellate Body academics specializing in international trade and related fields and lawyers from major law firms specializing in WTO law Contributors explain in a detailed manner the numerous procedural steps and practices developed over the past twenty five years on preparing for WTO litigation recognizing the importance of WTO consultations presenting a case before a panel panel requests and panels terms of reference the role and assistance of the WTO Secretariat the panel process rules of evidence confidentiality and transparency additional working procedures for the treatment of confidential information legal remedies to redeem a violation general considerations for appeal determining the reasonable period of time for compliance retaliation proceedings and use of non WTO international law Each contributor identifies the best practices and some of them also suggest potential areas for improvement of the dispute settlement mechanism from their respective points of view Lawyers and advisors working on WTO law and stakeholders from the private sector civil society and academia interested in WTO litigation will find in one source a deeply informed description of existing dispute resolution practices some of them previously undocumented including the most recent jurisprudence clarifying the scope of many procedural rules With its real life account of WTO dispute settlement procedures and its key insights and

advice from WTO insiders this book constitutes an expert assessment of a cornerstone of the rules based multilateral trading system and will prove of enormous value to all stakeholders in international trade *Trade Disputes and the Dispute Settlement Understanding of the WTO* James C. Hartigan,2009-02-01 Addresses the process of dispute resolution and appeal under the DSU of the WTO This book covers politics and disputes between sovereign nations power inequities in access to the DSU specific categories of disputes such as in agriculture and in intellectual property and issues pertaining to compliance enforcement and remedies *The WTO Dispute Settlement System* Mavroidis, Petros C.,2022-07-15 This incisive book provides a comprehensive overview of the WTO dispute settlement practice from 1995 up until the present day illustrating the need for it to be resurrected from its current state of crisis The WTO Dispute Settlement System will prove an essential read for students and scholars of WTO law as well as lawyers political scientists and policy oriented economists interested in the WTO dispute settlement system **WTO - Institutions and Dispute Settlement** Rüdiger

Wolfrum,Peter-Tobias Stoll,Karen Kaiser,2006-05-29 Two of the greatest achievements of the Uruguay Round were the establishment of the World Trade Organization WTO as compared to the GATT a fully fledged international organization and the creation of a new uniform and binding dispute settlement system While the failure of the Ministerial Conferences in Seattle and Canc n revealed the first cracks in the institutional structure of the WTO the operation of the new dispute settlement system has so far been a remarkable success In a practical and authoritative article by article account this volume covers the legislative history interpretation and practical application of the Agreement establishing the World Trade Organization Articles XXII XXIII and XXIV GATT 1994 the Dispute Settlement Understanding the Trade Review Policy Mechanism the Understanding in Respect of Waivers of Obligations under the GATT 1994 and the Understanding on the Interpretation of Article XXIV GATT 1994 Written by a team of distinguished scholars and practitioners the volume is an indispensable work of reference for all those interested in the WTO institutional fundamentals and the dispute settlement system international lawyers scholars and students of WTO law diplomats and international civil servants members of NGOs

The WTO Dispute Settlement Procedures World Trade Organization Secretariat,2012-08-02 The third edition of The WTO Dispute Settlement Procedures collects together the treaty texts decisions and agreed practices relating to the procedures that apply in the settlement of WTO disputes It affords ready answers to technical questions relating to matters such as how disputes are initiated and conducted including at the appellate stage what deadlines apply and how to calculate them what rules of conduct bind individuals involved in WTO dispute settlement and what rules of procedure apply to meetings of the Dispute Settlement Body This highly practical work which includes cross references and a subject index will prove invaluable to anyone working in WTO dispute settlement including lawyers civil servants working in the field of trade economists academics and students This edition has been fully updated to take account of revised rules and procedures **WTO Litigation, Investment Arbitration, and Commercial Arbitration** Jorge A. Huerta-Goldman,Antoine

Romanetti,2013-07-01 This book gathers contributions by twenty five world class practitioners leading academics adjudicators and civil servants in the field of WTO litigation investment arbitration and commercial arbitration It provides a practical cross cutting analysis of the different dispute settlement mechanisms that exist in international trade and investment and offers valuable insights into how to use best practices among the three systems The book addresses the critical areas of overlap that exist in the three disciplines including management of parallel proceedings and role of politics and pressure points within host governments selection and appointment of arbitrators panels and Appellate Body members use of experts and economics search of the applicable law interpretation of the national treatment principle and other substantive standards and legal tests methods of redressing moral damage regimes of review appeals and annulment enforcement systems of awards implementation of WTO law and other legal remedies and allocation of costs In addition to being the first in depth exploration of the interaction among WTO litigation investment arbitration and international commercial arbitration this book brings a singularly practical perspective to bear on the three dispute settlement mechanisms and how each can be used to best advantage Is the WTO dispute settlement procedure fair to developing countries?

Metivier, Jeanne,Bouët, Antoine,2017-06-16 Since the inception of the World Trade Organization WTO in 1995 member countries have been heavily relying on the organization s dispute settlement procedure DSP Exploiting a new database on WTO litigations between 1995 and 2014 this paper describes disputes initiated over this period and identifies potential sources of bias concerning the participation of developing countries The analysis builds on three different models to determine country i s probability of initiating a dispute against country j Either it depends only on the two countries structure of trade that is the number of products exported by i to j a situation we refer to as the rules based model or it is also affected by country i s or country j s specific characteristics the unilateral power based model or it is also affected by bilateral economic and trade relations between countries i and j the bilateral power based model We find that country i s structure of trade with j plays an important role in explaining the probability that i initiates a dispute against j under the DSP Furthermore country i s legal capacity and both countries political regimes also affect this probability However we do not find that bilateral relationships between i and j such as participants capacity to retaliate against each others have an impact on dispute initiation

Value Chains and WTO Disputes Aydin Baris Yildirim,2020-07-01 As economic populism and protectionism increasingly threatens the global trade order this book examines the behavior of World Trade Organization WTO members at the judicial arm of the WTO the dispute settlement mechanism DSM The author explores why and when governments cooperate at the WTO and comply with the ruling of its panels focusing on how the growth of global value chains through the internationalization of trade and production has increased the importance of both trade liberalization and supra national governance and policy making Finding that domestic organized interests i e firms and sectors mobilize and lobby national governments to change their domestic policies to better harmonize with their international trade commitments

the author outlines how the time it takes to comply with adverse WTO rulings is shorter when the potential domestic costs of non compliance outweigh protectionist interests The author s innovative research design highlights the conditions under which the WTO can preserve the rules of international trade and support a more open global economy

Reform and Development of the WTO Dispute Settlement System Dencho Georgiev, Kim van der Borch, 2006 The review of the dispute settlement system of the WTO was written into the results of the Uruguay Round establishing the organization The planned review after four years failed to reach a conclusion and the review process was extended several times to be finally taken up as a separate part of the Doha Round

Trade Remedies and World Trade Organization Dispute Settlement Chad P. Bown, 2012 Antidumping and related trade remedies are the most popular policy instruments that many of the largest importing countries in the World Trade Organization WTO system use to restrict international trade While such trade remedies are also frequent targets of dispute settlement activity under the WTO given that Panel and Appellate Body rulings have almost invariably found that some aspect of each reviewed remedy was inconsistent with WTO obligations an open research question is why aren t more remedies targeted by dispute settlement The author provides a first empirical investigation of the trade remedy and WTO dispute settlement interaction by focusing on determinants of WTO members decisions of whether to formally challenge U S trade remedies imposed between 1992 and 2003 He provides evidence that it is not only the size of the economic market at stake and the capacity to retaliate under potential DSU dispute settlement understanding authorized sanctions that influence the litigation decision of whether to formally challenge a measure at the WTO The author also finds that if the negatively affected foreign industry has the capacity to directly retaliate through a reciprocal antidumping investigation and measure of its own its government is less likely to pursue the case on its behalf at the WTO This is consistent with the theory that potential complainants may be avoiding WTO litigation in favor of pursuing reciprocal antidumping and hence vigilante justice

The WTO at Ten Giorgio Sacerdoti, Alan Yanovich, Jan Bohanes, 2006-07-06 Publisher Description *The WTO Dispute Settlement Procedures* World Trade Organization, 2012-08-02 First published by the World Trade Organization 1996 Title page verso *The WTO Dispute Settlement Procedures* Gabrielle Marceau, World Trade Organization, 1995

Small States in the Multilateral Trading System Laura Gosset, 2015-11-20 Developing countries including as small states and least developed countries LDCs continue to face significant challenges within the global trading system Action is required to allow them to overcome disadvantages and achieve sustainable levels of income from trade This study provides a fresh perspective on how measures can be taken to enhance the participation of small states many of which are Commonwealth countries in the multilateral trading system It contributes to the ongoing general debate about reforming the World Trade Organization and global trade governance

WTO's Legal Regime on Subsidies and Its Impact on Social And Economic Justice As Enshrined in The Indian Constitution Dr. A. S. Rao, 2023-10-20 It is a known fact that David Ricardo was the first to clearly articulate the benefits of

free trade If one looks at that the economists entrepreneurs and politician vigorously stressing the gains of free trade one would expect free trade to flourish in international trade without any barriers but protectionism in the form of subsidies still persists The volume of international trade and foreign investment has increased substantially since the end of World War II but so has protection All countries practice some type of protectionism in the form of tariffs subsidies and more generally non tariff barriers NTBs However governments world over have in the last 20 years signaled they supported the free trade But the failure for an agreement at the WTO meetings is a proof to the resilience of the protection and the ability of the special interests to get what they want out of their governments 1 State Subsidies in the Global Economy by Nikolaos Zahariadis Palgrave Macmillan New York 2008 Chapter 1 *The WTO and International Trade Law/dispute Settlement* Petros C. Mavroidis, A. O. Sykes, 2005 The system of dispute resolution within the WTO and its evolution over time have attracted the attention of numerous scholars This volume brings together a selection of papers by prominent scholars working in a range of disciplines The collection is divided into six parts The first addresses broad questions about the scope and function of the dispute resolution system Part II considers the relationship between the dispute system and national authorities while part III focuses more narrowly on the remedies for breach of legal obligations in the WTO system Part IV examines litigation and settlement questions Part V considers the pre WTO environment and the role of unilateralism in the enforcement of commitments under GATT The final section looks at broader systemic issues This insightful volume will be an essential source of reference for students and practitioners alike 25 articles dating from 1992 to 2003 **The Competing Jurisdictions of the WTO and the UNCLOS Dispute Settlement Fora in the Context of Multifaceted Disputes** Elena Ivanova, 2021-05-19 Die Arbeit untersucht die Interaktion zwischen den Streitbeilegungsmechanismen die im Rahmen des SR und des WTO Abkommens eingerichtet wurden Sie erforscht zugleich die Herausforderungen die Streitigkeiten f r internationale Gerichte mit begrenzter Zust ndigkeit darstellen Aus Sicht des WTO Vertrages und des SR gibt die Arbeit konkrete Antworten auf folgende Fragen Inwieweit k nnen die genannten Entscheidungsgremien angesichts ihrer begrenzten Zust ndigkeit auf andere Regeln des V lkerrechts verweisen Welche Auswirkungen haben die u erungen der Gerichte in Bezug auf den WTO Vertrag und umgekehrt Wie sollten Gerichte an Streitigkeiten herangehen die sowohl WTO Recht als auch Seerecht betreffen Wie ist ihr Zusammenspiel geregelt Die Arbeit bietet L sungen f r vielschichtige Streitigkeiten und tr gt damit zur Diskussion ber das internationale Verfahrensrecht und das Zusammenspiel von Vertr gen und Streitbeilegungsmechanismen bei Doing Business with China Jonathan Reuvid, Li Yong, 2005 This revised fifth edition of *Doing Business with China* has been updated to take into account key changes in the legal and fiscal environment It remains the most comprehensive guide available to all aspects of commercial engagement in China It focuses on developments in China as business and regulatory environment over the past four years since WTO entry and on the key industry sectors where China is already a global player or which offer good opportunities for foreign investment and trade In addition the

guide provides authoritative insight into accounting auditing and taxation practices banking foreign exchange and corporate finance and marketing issues which are unique to the Chinese markets Revisions include updates to chapters on economic performance and outlook China's Securities Market and sector reports on China's automotive industry banking oil and gas and steel production and core minerals

Why Adjudicate? Christina L. Davis, 2012-05-27 The World Trade Organization WTO oversees the negotiation and enforcement of formal rules governing international trade Why do countries choose to adjudicate their trade disputes in the WTO rather than settling their differences on their own In *Why Adjudicate* Christina Davis investigates the domestic politics behind the filing of WTO complaints and reveals why formal dispute settlement creates better outcomes for governments and their citizens Davis demonstrates that industry lobbying legislative demands and international politics influence which countries and cases appear before the WTO Democratic checks and balances bias the trade policy process toward public lawsuits and away from informal settlements Trade officials use legal complaints to manage domestic politics and defend trade interests WTO dispute settlement enables states and domestic groups to signal resolve more effectively thereby enhancing the information available to policymakers and reducing the risk of a trade war Davis establishes her argument with data on trade disputes and landmark cases including the Boeing Airbus controversy over aircraft subsidies disagreement over Chinese intellectual property rights and Japan's repeated challenges of U.S. steel industry protection In her analysis of foreign trade barriers against U.S. exports Davis explains why the United States gains better outcomes for cases taken to formal dispute settlement than for those negotiated Case studies of Peru and Vietnam show that legal action can also benefit developing countries

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