

WTO Dispute Settlement

Professor Padideh Ala'i

American University, Washington College of Law

WITA Panel January 29, 2026

WTO Dispute Settlement

- ▶ Nullification and Impairment of benefits
- ▶ GATT 1947 vs. WTO (consensus to reverse consensus) and creation of standing Appellate Body.
- ▶ Understanding on Rules and Procedures Governing the Settlement of Disputes (Dispute Settlement Understanding (DSU)).
- ▶ DSU delegates authority to the DSB to establish panels, adopt panel and Appellate Body Reports, maintain surveillance of implementation of rulings and recommendations and authorize the suspension of obligations
- ▶ DSB is comprised of representatives of all WTO members.
- ▶ From 1/1/1995 until 12/31/2024 the DSB met 490 times. *

WTO Dispute Settlement System: Process

- ▶ Request for Consultations
- ▶ Panel Formation
- ▶ Terms of Reference/composition of panel
- ▶ Interim Review (descriptive part of the report)
- ▶ Panel Report to parties
- ▶ Panel Report adopted by DSB OR Appealed
- ▶ Appellate Body review (not functioning)
- ▶ Implementation/dispute over implementation/non implementation
- ▶ Compensation/suspension of concessions/arbitration

Use of the WTO DS System Overall

- ▶ ICJ (1947 until 9/2025) has opened 201 cases and delivered 129 judgements.
- ▶ DS system (1995-12/24): 631 requests for consultation; 376 panels established; 297 panel reports issued; 195 appealed (about 66%)*
- ▶ Even after the demise of the Appellate Body, since late 2020, WTO DS had 59 disputes with 31 appealed into the void, 13 agreed procedures under Article 25, 2 MPIA.*
- ▶ In 2025 alone WTO had 12 new requests for consultation: 6 against the US; 2 against India, 2 against Canada, 1 against China, 1 against EU*

* https://www.wto.org/english/tratop_e/dispu_e/dispu_stats_e.htm#:~:text=As%20of%2031%20December%202024,resolve%20the%20matter%20in%20dispute.

* https://www.wto.org/english/tratop_e/dispu_e/dispu_current_status_e.htm