

Dispute settlement

- WTO dispute settlement had a demanding year in 2013, with adjudicating bodies examining 28 disputes on issues from green energy production to the banning of seal products.
- In 2013, the WTO received 20 “requests for consultations” – the first stage in the dispute settlement process – the third-highest number of requests filed in the last ten years.
- The Dispute Settlement Body established 12 new panels in 2013 to adjudicate 14 cases.
- Four panel reports and two Appellate Body reports were adopted by the Dispute Settlement Body in 2013.



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Background on dispute settlement

WTO members bring disputes to the WTO if they think their rights under trade agreements are being infringed. Settling disputes is the responsibility of the Dispute Settlement Body.

Dispute settlement activity in 2013

It was a demanding year for WTO dispute settlement in 2013, with adjudicating bodies examining 28 disputes on issues from green energy production to the banning of seal products. The Dispute Settlement Body (DSB), which met 13 times, received 20 requests for consultations, the first stage in the dispute settlement process. Developing countries launched nine of the requests, with Latin America particularly active. The rising workload poses challenges for the WTO Secretariat. On a positive note, the WTO's Digital Dispute Settlement Registry moved into its testing phase.

As well as participation by frequent dispute settlement participants such as the European Union, China, the United States and Japan, newer members such as Russia have been active in initiating dispute settlement proceedings. Members with less experience in dispute settlement such as Cuba, Namibia, Zambia and Zimbabwe participated in dispute settlement in 2013 (see Table 3), either initiating disputes in the case of Cuba or taking part in them as third parties in the case of the others.

An overview of dispute settlement activity

During 2013, the DSB received 20 "requests for consultations", which is the first stage in the WTO's dispute settlement process. Although less than the record 27 in 2012, it is still the third-highest number of requests filed in the last ten years. In addition to these new matters, 28 active disputes were already proceeding through adjudication, whether before the Appellate Body, panels or in arbitration. The DSB established 12 new panels in 2013 to adjudicate 14 new matters. Where more than one complaint deals with the same matter, they may be adjudicated by a single panel.

The DSB referred two requests for compliance panels back to the panels that had originally adjudicated the disputes. This is the usual approach in compliance proceedings. A compliance panel is established when there is disagreement between the original parties as to whether the losing party has brought its measure into line with WTO rules following an adjudication process. These cases were the Canadian and Mexican complaints against US labelling requirements for meat products and China's complaint against EU anti-dumping measures on steel fasteners (see page 91).

The DSB adopted four panel reports and two Appellate Body reports. Panels issued reports in disputes concerning Chinese anti-dumping duties on EU x-ray scanners, Chinese anti-dumping and countervailing measures on US broiler products, and Canada's measures related to Ontario's renewable energy sector in disputes brought by the European Union and Japan (see Table 1). The Appellate Body reports concerned the same disputes over Ontario's renewable energy measures. A compliance panel report was circulated in a dispute brought by Mexico over US anti-dumping measures on stainless steel but it was not adopted by the DSB because the parties reached an agreement on how to resolve their dispute.

The DSB authorized Antigua and Barbuda to impose trade retaliation measures against the United States for not fully complying with the DSB's recommendations and rulings in a dispute over online gambling. It referred to arbitration a request by Indonesia to take trade retaliation measures against the United States in a dispute over flavoured cigarettes. Finally, an arbitration award was circulated establishing the reasonable period of time for China to implement DSB rulings and recommendations in a dispute over countervailing and anti-dumping duties on certain electrical steel imports from the United States.

Information about the disputes, including the reports adopted by the DSB, can be found in Table 1.



Background on dispute settlement activity

The General Council convenes as the Dispute Settlement Body (DSB) to deal with disputes between WTO members. Such disputes may arise with respect to any agreement contained in the Final Act of the Uruguay Round that is subject to the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU). The DSB has authority to establish dispute settlement panels, refer matters to arbitration, adopt panel, Appellate Body and arbitration reports, maintain surveillance over the implementation of recommendations and rulings contained in such reports, and authorize suspension of concessions in the event of non-compliance with those recommendations and rulings.



Table 1: Panel and Appellate Body reports circulated in 2013*

Dispute	Document symbol	Complainant(s)	Respondent	Third parties	WTO agreements covered	Date of adoption by DSB
China – X-Ray Equipment	WT/DS425/R	European Union	China	Chile, India, Japan, Norway, Thailand, United States	Anti-Dumping Agreement	24 April 2013
Canada – Renewable Energy	WT/DS412/AB/R WT/DS412/R	Japan	Canada	Australia, Brazil, China, El Salvador, European Union, Honduras, India, Saudi Arabia, Korea, Mexico, Norway, Chinese Taipei, United States	Agreement on Subsidies and Countervailing Measures (SCM) Agreement on Trade Related Aspects of Investment Measures (TRIMs) GATT 1994 DSU	24 May 2013
Canada – Feed In Tariff Program	WT/DS426/AB/R WT/DS426/R	European Union	Canada	United States, Japan, Australia, China, Chinese Taipei, India, Saudi Arabia, Brazil, Korea, Mexico, Norway, Turkey, El Salvador	SCM Agreement TRIMs GATT 1994 DSU	24 May 2013
China – Broiler Products	WT/DS427/R	United States	China	Chile, European Union, Japan, Mexico, Norway, Saudi Arabia, Thailand	SCM Agreement Anti-Dumping Agreement	25 September 2013
EC – Seal Products	WT/DS400/R	Canada	European Union	Argentina, China, Colombia, Ecuador, Iceland, Japan, Mexico, Norway, Russia, United States	GATT 1994 TBT Agreement	[Panel report under appeal]
EC – Seal Products	WT/DS401/R	Norway	European Union	Argentina, Canada, China, Colombia, Ecuador, Iceland, Japan, Mexico, Namibia, Russia, United States	GATT 1994 TBT Agreement Agreement on Agriculture	[Panel report under appeal]
US – Stainless Steel (Mexico) (Article 21.5 – Mexico)	WT/DS344/RW	Mexico	United States	Brazil, China, the European Union, Japan, Korea	Final report not circulated to WTO members (mutually agreed solution)	Unadopted (mutually agreed solution)

*Appellate Body reports are rows shaded in blue. Further information on these reports is provided in Table 4 on page 93.

Which WTO members were active in 2013?

Developing countries launched nine of the 20 new requests for consultations filed in 2013 (see Figure 1). Latin American members initiated five, with Argentina the most active from the region with two complaints. Cuba initiated its first-ever dispute, a complaint against Australia's measures on plain packaging for tobacco products. This brings to five the number of complaints brought by WTO members against Australia's plain packaging requirements. A number of Asian members were active, including Indonesia and Japan, each submitting two requests for consultations. Russia, which acceded to the WTO in 2012, was active as a complainant, a respondent and as a third party.

Table 2 shows requests for consultations made during 2013 and the status of those requests. It highlights the strong participation of developing countries in the system.

Table 2 shows the variety of WTO agreements raised in disputes initiated in 2013. All disputes initiated included challenges under the General Agreement on Tariffs and Trade (GATT) 1994. Since 1995, 375 of the 474 requests for consultations have included a claim under this agreement. Disputes under the Subsidies and Countervailing Measures (SCM) Agreement and the Anti-Dumping (ADP) Agreement have also arisen more frequently since 1995 than disputes under other agreements. Figure 3 shows the number of times an agreement has been referred to in requests for consultations since 1995.

Subject matter of the disputes

Table 2 shows that WTO members are litigating in many different trade areas (see Figure 3). Current disputes include complaints concerning: measures imposed by Colombia on the importation of textiles, clothing and footwear; a recycling fee imposed by Russia on motor vehicles; and anti-dumping duties imposed by China on high performance seamless stainless steel tubes from Japan and the European Union.

A sharp increase in panels during 2013

Dispute settlement was very active in 2013, due in no small part to last year's record requests for consultations (see Figures 1, 2 and 4). Fifteen panels were active, covering 20 different complaints, of which the Legal Affairs Division assisted with seven (relating to 11 disputes). The other eight panels (relating to nine disputes) were in the area of trade remedies and were assisted by the Rules Division.

Figure 1: Requests for consultations in 2013, by complainant

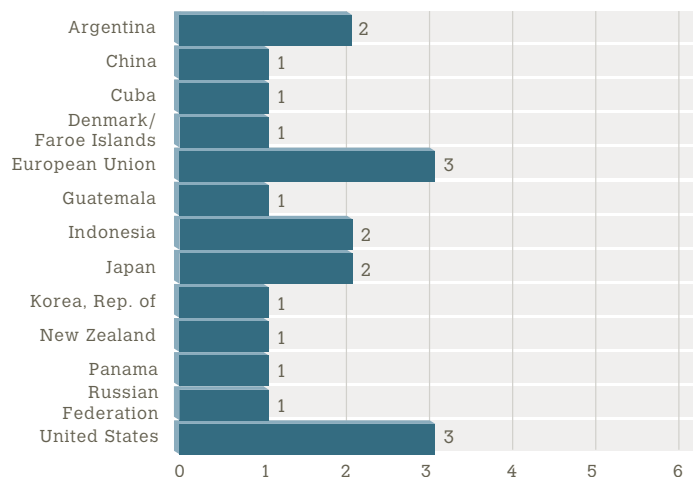


Figure 2: Requests for consultations in 2013, by respondent

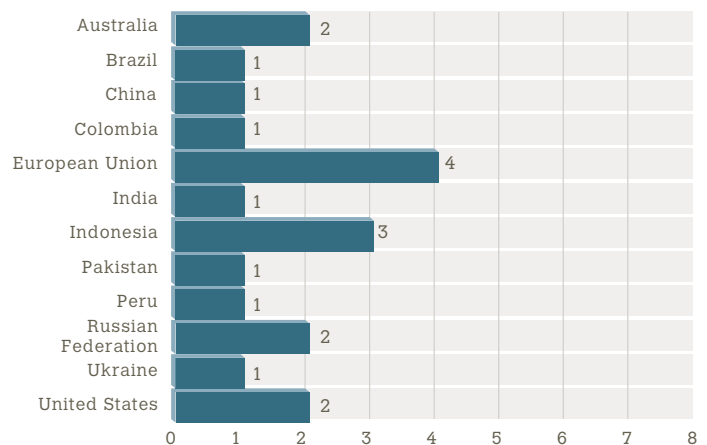


Table 2: Requests for consultations in 2013

Title	Dispute number	Complainant	Date of initial request	WTO agreements cited	Status as of 31 December 2013
Indonesia – Importation of Horticultural Products, Animals and Animal Products	WT/DS455	United States	10 January 2013	General Agreement on Tariffs and Trade (GATT) Agreement on Agriculture Agreement on Import Licensing Procedures	Panel established/ panel composition pending
India – Certain Measures Relating to Solar Cells and Solar Modules	WT/DS456	United States	6 February 2013	GATT Agreement on Trade Related Aspects of Investment Measures (TRIMs) Agreement on Subsidies and Countervailing Measures (SCM)	In consultations
Peru – Additional Duty on Imports of Certain Agricultural Products	WT/DS457	Guatemala	12 April 2013	GATT Agriculture Agreement on Implementation of Article VII (Customs Valuation)	Panel work has commenced
Australia – Certain Measures concerning Trademarks, Geographical Indications and other Plain Packaging Requirements applicable to Tobacco Products and Packaging	WT/DS458	Cuba	3 May 2013	GATT Agreement on Technical Barriers to Trade (TBT) Agreement on Trade Related Aspects of Intellectual Property Rights, Including Trade in Counterfeit Goods (TRIPS)	In consultations
EU and certain member States – Certain Measures on the Importation and Marketing of Biodiesel and Measures Supporting the Biodiesel Industry	WT/DS459	Argentina	15 May 2013	GATT TBT Agreement Establishing the World Trade Organization (WTO Agreement) TRIMs SCM	In consultations

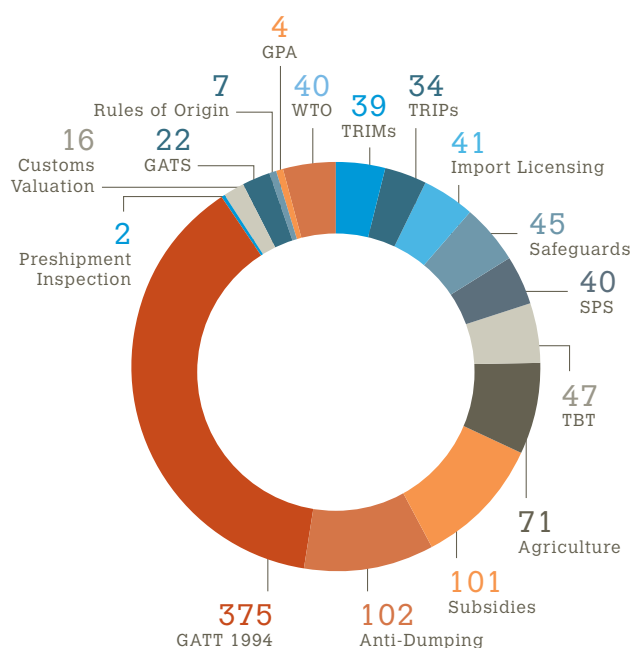
Table 2: Requests for consultations in 2013 (continued)

Title	Dispute number	Complainant	Date of initial request	WTO agreements cited	Status as of 31 December 2013
China – Measures Imposing Anti-Dumping Duties on High-Performance Stainless Steel Seamless Tubes ("HP-SSST") from the European Union	WT/DS460	European Union	13 June 2013	GATT Anti-dumping Agreement (ADP)	Panel work has commenced
Colombia – Measures Relating to the Importation of Textiles, Apparel and Footwear	WT/DS461	Panama	18 June 2013	GATT	Panel established/ panel composition pending
Russia – Recycling Fee on Motor Vehicles	WT/DS462	European Union	9 July 2013	GATT TRIMs	Panel established/ panel composition pending
Russia – Recycling Fee on Motor Vehicles	WT/DS463	Japan	24 July 2013	GATT TRIMs TBT	In consultations
US – Anti-Dumping and Countervailing Measures on Large Residential Washers from Korea	WT/DS464	Republic of Korea	29 August 2013	GATT ADP SCM	Panel request pending before the DSB
Indonesia – Importation of Horticultural Products, Animals and Animal Products	WT/DS465	United States	30 August 2013	GATT Agriculture Import Licensing Agreement on Preshipment Inspection (PSI)	In consultations
Indonesia – Importation of Horticultural Products, Animals and Animal Products	WT/DS466	New Zealand	30 August 2013	GATT Agriculture Import Licensing	In consultations

Table 2: Requests for consultations in 2013 (continued)

Title	Dispute number	Complainant	Date of initial request	WTO agreements cited	Status as of 31 December 2013
Australia – Certain Measures concerning Trademarks, Geographical Indications and other Plain Packaging Requirements applicable to Tobacco Products and Packaging	WT/DS467	Indonesia	20 September 2013	GATT TBT TRIPS	In consultations
Ukraine – Definitive Safeguard Measures on Certain Passenger Cars	WT/DS468	Japan	30 October 2013	GATT Agreement on Safeguards	In consultations
EU – Measures on Atlanto-Scandian Herring	WT/DS469	Denmark in respect of Faroe Islands	4 November 2013	GATT	In consultations
Pakistan – Anti-Dumping and Countervailing Investigations on Certain Paper Products from Indonesia	WT/DS470	Indonesia	27 November 2013	GATT ADP SCM	In consultations
US – Certain Methodologies and their Application to Anti-Dumping Proceedings involving China	WT/DS471	China	3 December 2013	GATT ADP	In consultations
Brazil – Certain Measures Concerning Taxation and Charges	WT/DS472	European Union	19 December 2013	GATT SCM TRIMs	In consultations
EU – Anti-Dumping Measures on Biodiesel from Argentina	WT/DS473	Argentina	19 December 2013	GATT ADP WTO Agreement	In consultations
EU – Cost Adjustment Methodologies and Certain Anti-Dumping Measures on Imports from Russia	WT/DS474	Russia	23 December 2013	GATT ADP SCM WTO Agreement	In consultations

Figure 3: WTO agreements referred to in requests for consultations, 1995-2013 (number of times)



Divided thematically, rather than by WTO agreement, the disputes reveal some interesting trends and show the type of expertise that is required by panels and the WTO Secretariat working on them. The greatest number of disputes, eight in total, concerned either local content requirements in subsidies and investment measures ("EC and certain member states – Large Civil Aircraft (Article 21.5 – US)"; "US – Large Civil Aircraft (2nd complaint) (Article 21.5 – EC)"; "US – Carbon Steel (India)"; and "US – Shrimp II (Viet Nam)"); or trade remedies, such as anti-dumping and countervailing duties ("US – Countervailing Measures (China)"; "China – Autos (US)"; "US – Countervailing and Anti-Dumping Measures (China)"; and "China – High Performance Stainless Steel Tubes").

Two disputes – "Peru – Agricultural Products" and "Colombia – Textiles" – concerned tariffs and customs matters. Likewise, "China – Rare Earths" concerned tariffs and customs matters but within the specific context of China's Accession Protocol. "India – Agricultural Products" and "US – Animals" dealt with sanitary and phytosanitary measures. Two disputes, "US – COOL (Article 21.5)" and "EC – Seal Products" concerned technical barriers to trade. Licensing was an issue in only one dispute, namely "Argentina – Import Measures". Only one dispute, "Argentina – Goods and Services", concerned trade in services. This information is summarized in Figure 5.

Staffing implications

The increase in active panels has important staffing implications for the WTO Secretariat, which provides lawyers and other staff to assist panellists and Appellate Body members with their work. Most panellists have full-time jobs and are therefore available to work on panels on a part-time basis only. The Secretariat's dispute settlement lawyers provide legal advice and assistance to panellists and Appellate Body members in the form of research on previous cases, background papers on factual and legal matters relating to the disputes, and legal opinions on matters raised in disputes. Two ongoing and complex disputes concerning subsidies provided to large civil aircraft (Airbus and Boeing), which are currently being considered by compliance panels, continue to require assistance from large teams of Secretariat lawyers (12 in total), not to mention the non-legal staff that contribute to this effort.

Two sanitary and phytosanitary (food safety and animal and plant health) disputes were begun in 2013. These disputes can be particularly complex, usually requiring the panels to seek the advice of outside experts to advise them on the scientific issues involved, such as the control of bird influenza or foot and mouth disease. Unusually, two disputes that started in 2013 are being conducted entirely in Spanish. The three official languages of the WTO are English, French and Spanish but the vast majority of dispute settlement panels operate in English.

The extra demand required the WTO Secretariat to hire lawyers – both temporary and permanent. The highly demanding and highly specialized nature of the work involved in assisting WTO panels and the Appellate Body means that lawyers who carry out this work must have a solid grounding in WTO law and procedure, and team leaders must have practical experience in WTO dispute settlement. As a result, resolving the human resources problem associated with the spike in dispute settlement activity is not simply a matter of hiring legally trained personnel or of reallocating staff from other parts of the Secretariat. As of December 2013, there were 30 permanent staff lawyers and 17 temporary lawyers in the Appellate Body, Legal Affairs Division and Rules Division working on disputes.

The pressure imposed by the upsurge in active dispute settlement activity extends to other Secretariat staff supporting the lawyers in their work. These include economists, translators, who translate the voluminous panel and Appellate Body reports (usually into French and Spanish because the working language of virtually all panels has been English), interpreters and secretarial staff. It also affects the Dispute Settlement Registry, which receives and files the submissions and maintains the official record for every dispute at the panel stage, and the WTO's print unit, which prints the panel and Appellate Body reports for each WTO member.

Figure 4: Number of disputes filed per year

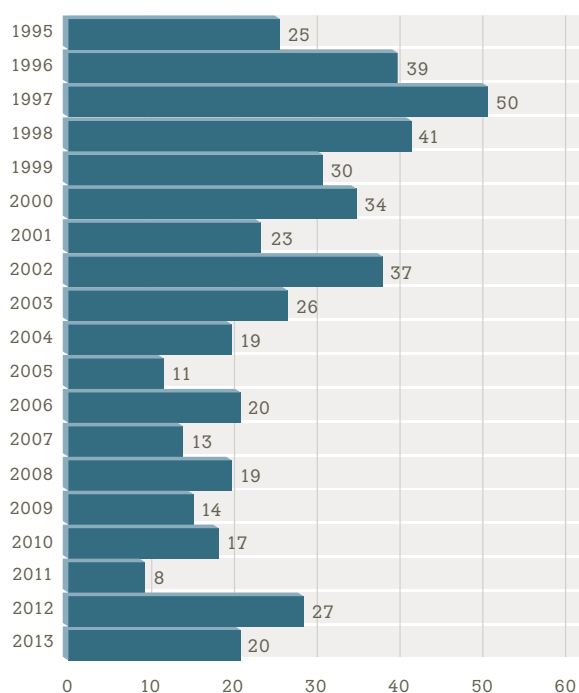
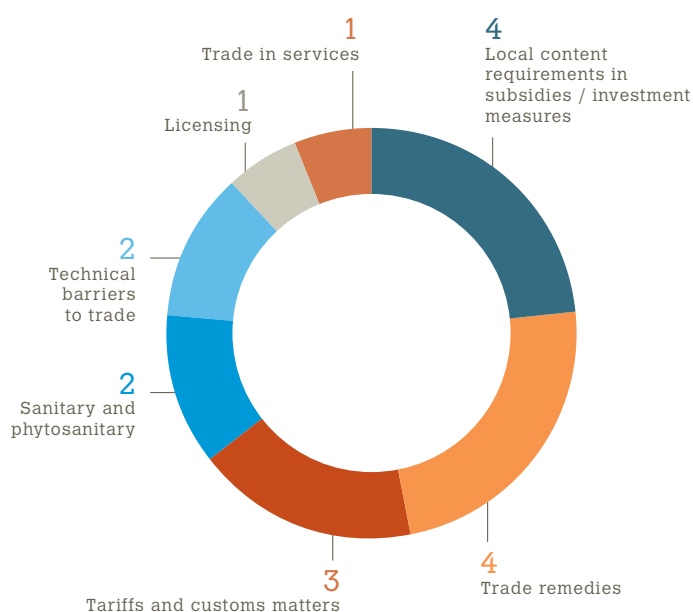


Figure 5: Themes in WTO disputes in 2013



The recent hiring of staff has provided some short-term relief. However, challenges remain, including how to retain staff, especially senior staff, who mentor, train and supervise junior staff. This is especially important if the WTO is to continue to provide high-quality legal services to the adjudicating bodies. The WTO dispute settlement system is lauded as one of the most active and fastest adjudicative systems in the world. It is preferred to the many dispute settlement mechanisms contained in the hundreds of regional trade agreements the world over. It is important to invest in its future.

Reports adopted by the DSB

Trade remedies allow governments to take remedial action when a domestic industry is being injured by imports, provided certain conditions are established through an investigation by national authorities. The rising trend in such disputes continued in 2013. Two of the four panel reports and the Appellate Body reports adopted in 2013 concerned subsidies and trade-related investment measures (TRIMS). The other two panel reports concerned trade remedy disputes involving anti-dumping and countervailing (anti-subsidy) measures.

A close-up look at two Appellate Body reports

In 2013, the Appellate Body issued two reports in disputes brought by the European Union and Japan against Canada concerning subsidies and domestic content requirements in the renewable energy sector (see Table 1). The challenged measures included the Feed-in Tariff (FIT) Program of the Province of Ontario. Under the challenged measures, electricity generators that use qualifying renewable technologies, such as wind and solar photovoltaic (PV), receive a guaranteed price for their electricity during the contract term of 20 years, provided that they meet certain conditions. These conditions include using a minimum percentage of equipment and services produced in Ontario in the development and construction of the renewable energy projects.

One key issue on appeal concerned the applicability of a derogation from the national treatment obligation of Article III of the GATT 1994. The derogation under Article III:8 of the GATT 1994 allows WTO members to adopt measures favouring domestic products in certain government procurement transactions. Both the panel and the Appellate Body found that the challenged measures did not fall within the scope of this derogation and were therefore inconsistent with national treatment obligations of the GATT 1994 and the TRIMS Agreement.

The basis for the Appellate Body's finding, however, was different from that of the panel. The Appellate Body found that to qualify for this derogation, the foreign product allegedly suffering discrimination must be, among other things, in competition with the product purchased by the government. In

Table 3: WTO members involved in disputes, 1995 to 2013*

Member	Complainant	Respondent	Member	Complainant	Respondent
Antigua and Barbuda	1	0	Malaysia	1	1
Argentina	20	22	Mexico	23	14
Armenia	0	1	Moldova, Republic of	1	1
Australia	7	15	Netherlands	0	3
Bangladesh	1	0	New Zealand	8	0
Belgium	0	3	Nicaragua	1	2
Brazil	26	15	Norway	4	0
Canada	33	17	Pakistan	3	3
Chile	10	13	Panama	7	1
China	12	31	Peru	3	5
Colombia	5	4	Philippines	5	6
Costa Rica	5	0	Poland	3	1
Croatia	0	1	Portugal	0	1
Czech Republic	1	2	Romania	0	2
Denmark	1	1	Russian Federation	1	2
Dominican Republic	1	7	Singapore	1	0
Ecuador	3	3	Slovak Republic	0	3
Egypt	0	4	South Africa	0	4
El Salvador	1	0	Spain	0	3
European Union (formerly EC)	90	77	Sri Lanka	1	0
France	0	4	Sweden	0	1
Germany	0	2	Switzerland	4	0
Greece	0	3	Chinese Taipei	3	0
Guatemala	9	2	Thailand	13	3
Honduras	8	0	Trinidad and Tobago	0	2
Hong Kong, China	1	0	Turkey	2	9
Hungary	5	2	Ukraine	3	2
India	21	22	United Kingdom	0	3
Indonesia	8	7	United States of America	106	121
Ireland	0	3	Uruguay	1	1
Italy	0	1	Venezuela, Bolivarian Republic of	1	2
Japan	19	15	Viet Nam	2	0
Korea, Republic of	16	14			

*This table indicates notifications of "requests for consultations" received by the WTO.

these disputes, the Government of Ontario was buying electricity whereas the product discriminated against was generation equipment. These two products are not in a competitive relationship. Accordingly, the Appellate Body concluded that the discrimination was not covered by the derogation of Article III:8(a) of the GATT 1994. This is the first time that the government procurement derogation in Article III:8(a) of the GATT 1994 has been interpreted by the Appellate Body.

Another key issue on appeal related to the definition of a subsidy. Under Article 1.1 of the Subsidies and Countervailing Measures (SCM) Agreement, a subsidy is defined as a financial contribution by a government or public body that confers a benefit on the recipient. To determine whether a financial contribution in the form of government purchase of goods confers a benefit, Article 1.1(b) requires a comparison between the actual remuneration obtained by the recipient and a benchmark in the relevant market. In these disputes, the panel concluded that the European Union and Japan had failed to establish that the challenged measures conferred a benefit. The Appellate Body reversed this finding.

The Appellate Body declared that the panel erred in using for the benefit comparison the market for electricity generated from all sources of energy. In the Appellate Body's view, had the panel carried out an analysis of demand-side and supply-side factors, it would have found that producers of wind- and solar PV-generated electricity do not compete with other electricity producers because of differences in cost structures and operating costs. This would have led the panel to conclude that the relevant market for the benefit comparison was the market for wind- and solar PV-generated electricity. The Appellate Body could not go on to determine whether the challenged measures conferred a benefit within the meaning of Article 1.1(b) of the SCM Agreement because there were insufficient facts in the panel report or record to complete the analysis. As a result, there was no finding as to whether the measures at issue conferred a benefit and, consequently, whether they were prohibited subsidies.

Information about the reports issued can be found in Table 1.

Reports circulated to WTO members but not yet adopted

The "EC – Seal Products" panel was established to examine EU prohibition on the importation and marketing of seal products. The EU measure includes exceptions to the prohibition for seal products derived from hunts conducted by Inuit or indigenous communities and hunts conducted for marine resource management purposes, provided certain conditions are met. Canada and Norway challenged the EU measure under the Technical Barriers to Trade (TBT) Agreement and the GATT 1994.

The panel report, which was circulated to WTO members in November 2013, concluded that the European Union had established that the prohibition addressed public moral concerns in the European Union about seal welfare. However, the measure was inconsistent with the European Union's WTO obligations

because the European Union had acted in a discriminatory manner with respect to the exceptions. The EU measure was thus found to be inconsistent with the TBT Agreement and the GATT 1994. Aspects of the panel's findings have been appealed to the Appellate Body.

Compliance panel and arbitration work

For the first time since 2009, the DSB referred a number of disputes to either a compliance panel or an arbitrator. One compliance panel ("US – COOL") is considering complaints by Canada and Mexico that the United States has not fully complied with the findings of the original panel and Appellate Body regarding aspects of its country of origin labelling (COOL) requirements for meat products, which were found to be inconsistent with the United States' WTO obligations under the TBT Agreement.

Two separate compliance panels – "EC and certain member states – Large Civil Aircraft" and "US – Large Civil Aircraft (2nd complaint)" – are considering whether measures taken to comply with rulings and recommendations regarding aircraft subsidies comply with the WTO obligations of the European Union and the United States, respectively. Following a request by China, the DSB referred the parties in "EC – Fasteners (China)" to a compliance panel. The dispute involves EU anti-dumping measures on certain Chinese iron and steel fasteners, such as nuts and bolts.

The arbitrator for the "US – Clove Cigarettes" dispute commenced work in 2013. The panel and Appellate Body reports in "US – Clove Cigarettes", which were adopted in 2012, concluded that the United States had acted inconsistently with its obligations under the TBT Agreement in connection with its measures regarding the import and sale of flavoured cigarettes. Indonesia asked the DSB for permission to impose retaliation measures against the United States, referred to as "suspension of concessions or obligations", alleging non-compliance by the United States with the DSB's earlier recommendations and rulings. The United States did not agree that it had failed to comply with the rulings and recommendations in the case; nor did it agree with the level or form of the retaliation proposed by Indonesia. As a result, the matter was referred to arbitration.

In another dispute concerning the suspension of concessions – "US – Gambling" – Antigua and Barbuda requested permission from the DSB to take trade retaliation measures against the United States. This is due to the US failure to comply with rulings and recommendations of the DSB regarding the US ban on online gambling services provided by the Caribbean island state. The level and form of trade retaliation that Antigua and Barbuda is entitled to take against the United States was determined by an arbitrator in 2007. Therefore, the DSB agreed to Antigua and Barbuda's request.

Digital Dispute Settlement Registry

As part of its efforts to continually improve the service it offers, the WTO Secretariat is working with WTO members to develop a Digital Dispute Settlement Registry, which will allow members to submit dispute settlement documents online through a secure and convenient facility from anywhere in the world. The system will store all panel and Appellate Body records dating back to 1995 and will permit members and the public to search for publicly available information from past disputes, including material that has only been available in printed form up to now. The project is now in the testing phase.

Enhancing panel efficiency

Alejandro Jara, then Deputy Director-General, continued his informal consultations on improving the panel process in ways that would not imply a modification of the Dispute Settlement Understanding. He conducted more than 20 meetings with various delegates, representatives of law firms, academic institutions, intergovernmental organizations and other stakeholders.

The topics included several aspects of panels' management of their adjudication process, such as the selection of, and questions to, panel experts, rulings on preliminary matters, pre-panel meeting agendas and the length of written submissions and oral statements. Discussions also concerned the use of non-governmental third-party panellists, electronic means of communications, and document production and translation matters. In his second report to WTO members in September 2013, which is available on the WTO website, DDG Jara noted that the consultations had been an educational exercise for all those involved. Searching for efficiency and quality gains in the panel process should be a continual process, he said.

Appellate Body

The Appellate Body circulated reports in two disputes during 2013, both involving Canadian measures in the renewable energy sector. Canada had appealed the findings of the panel reports in both cases earlier in the year. One arbitration proceeding concerning the reasonable period of time for implementation of Dispute Settlement Body recommendations and rulings was carried out in 2013. Two members of the Appellate Body, Ricardo Ramírez-Hernández and Peter Van den Bossche, completed their first terms and were reappointed. David Unterhalter completed his second and final term. A new member of the Appellate Body will be appointed in 2014.

A full list of appeals filed and Appellate Body reports circulated in 2013 is provided in Tables 4 and 5. Figure 6 shows the number of appeals filed each year between 1995 and 2013. Further information on circulated reports is provided in Table 1 on page 83.

Details of the Appellate Body's findings are set out on pages 89 and 91. By the end of 2013, the Appellate Body had circulated 119 reports since its establishment in 1995 (see Figure 7).

One Article 21.3(c) arbitration proceeding concerning the reasonable period of time for implementation of Dispute Settlement Body (DSB) recommendations and rulings was carried out in 2013. Further information about the arbitration is provided in Table 6.



Background on the Appellate Body

The Appellate Body consists of seven members appointed by the Dispute Settlement Body. Each member is appointed for a term of four years, with the possibility of being reappointed for one further four-year term. Three members of the Appellate Body hear an appeal of a panel's ruling. Any party to a dispute may appeal the panel report to the Appellate Body. The appeal is limited to issues of law covered in the panel report and legal interpretations developed by the panel.



David Unterhalter's term of office as an Appellate Body member ended on 11 December 2013. He gave his farewell speech on 22 January 2014.

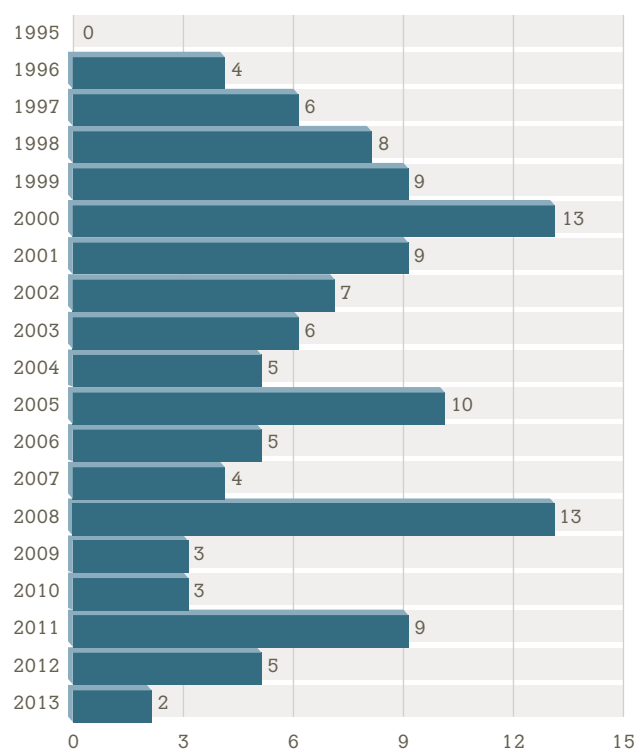
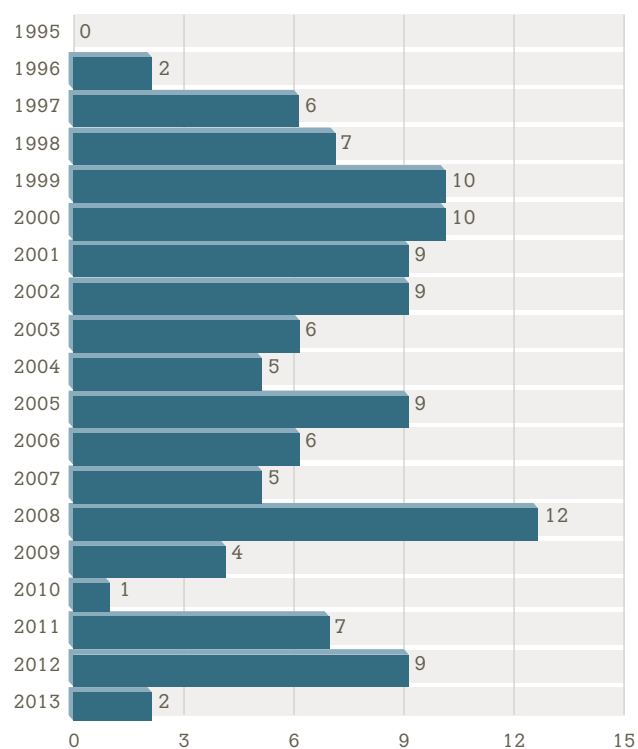
Table 4: Appeals filed in 2013

Panel reports appealed	Date of appeal	Appellant	Document number	Other appellant	Document number
Canada – Certain Measures Affecting the Renewable Energy Generation Sector	5 February 2013	Canada	WT/DS412/10	Japan	WT/DS412/11
Canada – Measures Relating to the Feed-in Tariff Program	5 February 2013	Canada	WT/DS426/9	European Union	WT/DS426/10

Table 5: Appellate Body reports circulated in 2013

Panel reports appealed	Date of appeal	Appellant	Document number	Other appellant(s)	Document number	Circulation date of report
Canada – Certain Measures Affecting the Renewable Energy Generation Sector*	5 February 2013	Canada	WT/DS412/10	Japan	WT/DS412/11	6 May 2013
Canada – Measures Relating to the Feed-in Tariff Program*	5 February 2013	Canada	WT/DS426/9	European Union	WT/DS426/10	6 May 2013

*These two Appellate Body reports were circulated in a single document.

Figure 6: Number of notices of appeal filed, 1995 to 2013**Figure 7: Number of Appellate Body Reports circulated, 1995 to 2013****Table 6: Article 21.3(c) arbitration awards circulated in 2013**

Dispute	Parties	Document number	Circulation date of arbitration award
China – GOES (Grain Oriented Flat-rolled Electrical Steel)	China United States	WT/DS414/12	3 May 2013



Appellate Body members

The first four-year term of Ricardo Ramírez-Hernández expired at the end of June 2013. The DSB reappointed Mr Ramírez-Hernández for a second four-year term beginning on 1 July 2013.

On 11 December 2013, the first four-year term of Peter Van den Bossche expired. The DSB reappointed Mr Van den Bossche for a second four-year term beginning on 12 December 2013.

At its meeting on 24 May 2013, the DSB adopted a decision to launch a selection process for appointment of a new member to replace David Unterhalter, whose second term as an Appellate Body member ended in December 2013.

In November 2013, the Chair of the DSB informed delegations that, due to the intensive consultation process in preparation for the Ministerial Conference in Bali in December 2013,

the selection committee had not been able to complete its deliberations on a recommendation regarding a new member of the Appellate Body. The selection committee proposed to resume its deliberations in 2014, with a view to making its recommendation as soon as practicable thereafter.

Throughout 2013, the seven Appellate Body members were:

- Ujal Singh Bhatia (India) (2011-15)
- Seung Wha Chang (Republic of Korea) (2012-16)
- Thomas R. Graham (United States) (2011-15)
- Ricardo Ramírez-Hernández (Mexico) (2009-17)
- David Unterhalter (South Africa) (2006-13)
- Peter Van den Bossche (Belgium) (2009-17)
- Yuejiao Zhang (China) (2008-16)

Mr Ramírez-Hernández served as Chair of the Appellate Body from 1 January to 31 December 2013.



Members of the Appellate Body in December 2013, from left to right: David Unterhalter, Ujal Singh Bhatia, Peter Van den Bossche, Yuejiao Zhang, Ricardo Ramírez-Hernández, Thomas R. Graham and Seung Wha Chang.