



## Dispute settlement

- WTO members brought 17 new disputes to the WTO's dispute settlement system in 2016.
- Out of the 520 trade disputes brought to the WTO since 1995, the largest number of disputes has been brought by the United States (112) and the European Union (97).
- Two new members were appointed to the WTO's seven-member Appellate Body in 2016.

Dispute settlement activity in 2016	106
Appellate Body	115

#### 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 2016

The WTO's dispute settlement system had its busiest year so far, averaging 22 cases per month where active proceedings are under way. These are cases where a panel or arbitration has been composed and where preparations are ongoing for the finalization of a panel, arbitration or Appellate Body report. The Dispute Settlement Body (DSB) received 17 requests for consultations, the first step in the dispute settlement process, and established eight new panels. The dispute settlement system began to benefit from measures introduced to address the increasing workload it faces.

During 2016, the dispute settlement system began to feel the benefit of measures introduced by Director-General Roberto Azevêdo to address the challenge of the mounting number of disputes being brought by WTO members. One of those steps was to reallocate vacant posts to the legal divisions (see page 168) and to ensure adequate staffing for trade remedy cases, which are a particularly active area for disputes.

As of 31 December 2016, the WTO's Rules Division, which handles trade remedy and subsidies disputes, was fully staffing all its disputes. This was achieved principally by recruiting more lawyers (added to those already recruited in recent years) and by greater assignment flexibility.

Some 520 trade disputes have been brought by WTO members since the organization was established in 1995 (see Table 1). Two-thirds of the WTO membership has participated in the system in one way or another. The disputes



## 520

Some 520 trade disputes have been submitted to the WTO for settlement since 1995.

address a wide range of trade concerns and often touch upon global issues, such as human health, renewable energy, conservation of natural resources and, more recently, money laundering and tax evasion (see Figure 1).

"We have to acknowledge that such success and trust from WTO members also presents challenges, including of an administrative nature. We will continue to work together — the Appellate Body members, the Secretariat and WTO member countries — to respond to these challenges," DG Azevêdo said in an address to members in January 2017. "Recourse to the dispute settlement system has ensured adherence to negotiated rules, thereby helping to provide security and predictability in international trade," he said.

## Background on dispute settlement activity

The General Council convenes as the Dispute Settlement Body (DSB) to deal with matters concerning 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 as adopted by the DSB, and authorize suspension of concessions in the event of non-compliance with those recommendations and rulings.



## 22

The WTO's dispute settlement system had its busiest year so far, averaging 22 active panel, arbitration and Appellate Body proceedings per month.



**Table 1: WTO members involved in disputes, 1995 to 2016**

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	Morocco	0	1
Bangladesh	1	0	Netherlands	0	3
Belgium	0	3	New Zealand	9	0
Brazil	30	16	Nicaragua	1	2
Canada	35	18	Norway	4	0
Chile	10	13	Pakistan	5	3
China	15	38	Panama	7	1
Colombia	5	5	Peru	3	5
Costa Rica	5	0	Philippines	5	6
Croatia	0	1	Poland	3	1
Cuba	1	0	Portugal	0	1
Czech Republic	1	2	Romania	0	2
Denmark	1	1	Russian Federation	4	7
Dominican Republic	1	7	Singapore	1	0
Ecuador	3	3	Slovak Republic	0	3
Egypt	0	4	South Africa	0	5
El Salvador	1	0	Spain	0	3
European Union	97	83	Sri Lanka	1	0
France	0	4	Sweden	0	1
Germany	0	2	Switzerland	4	0
Greece	0	3	Chinese Taipei	6	0
Guatemala	9	2	Thailand	13	4
Honduras	8	0	Trinidad and Tobago	0	2
Hong Kong, China	1	0	Turkey	3	9
Hungary	5	2	Ukraine	5	3
India	23	24	United Kingdom	0	3
Indonesia	10	14	United States	112	129
Ireland	0	3	Uruguay	1	1
Italy	0	1	Venezuela, Bolivarian Republic of	1	2
Japan	23	15	Viet Nam	3	0
Korea, Republic of	17	16			

## Which WTO members initiated disputes in 2016?

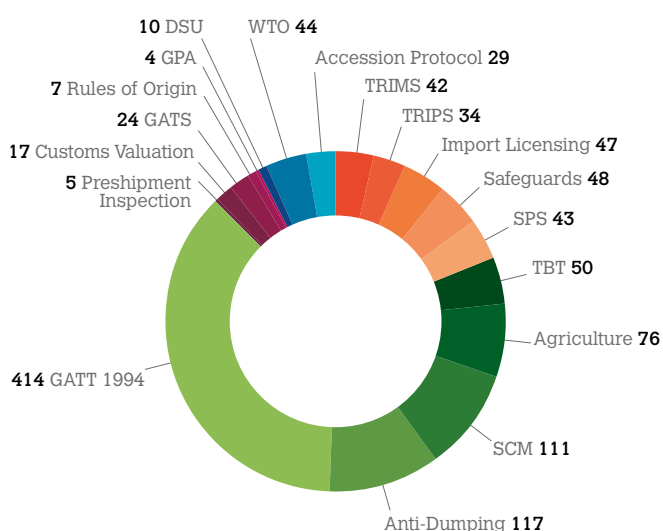
2016 was an active year for the initiation of disputes, with 17 requests for consultations, up from 13 in 2015 (see Figure 2). Developing country members made nine of the requests (up from seven) and were respondents in ten consultation requests (see Table 2).

Brazil launched three requests for consultations – against Indonesia, Thailand and the United States. Canada requested consultations with the United States concerning the imposition of countervailing measures on supercalendered paper. China initiated two disputes, one with the European Union and the other with the United States. The European Union requested consultations with China on the export duties imposed on raw materials and with Colombia concerning measures imposed on imported spirits.

India initiated two disputes with the United States, one concerning non-immigrant visas and another concerning measures relating to the renewable energy sector. Japan also launched two disputes, one with Korea concerning anti-dumping measures on pneumatic valves and another with India regarding measures on imports of iron and steel products.

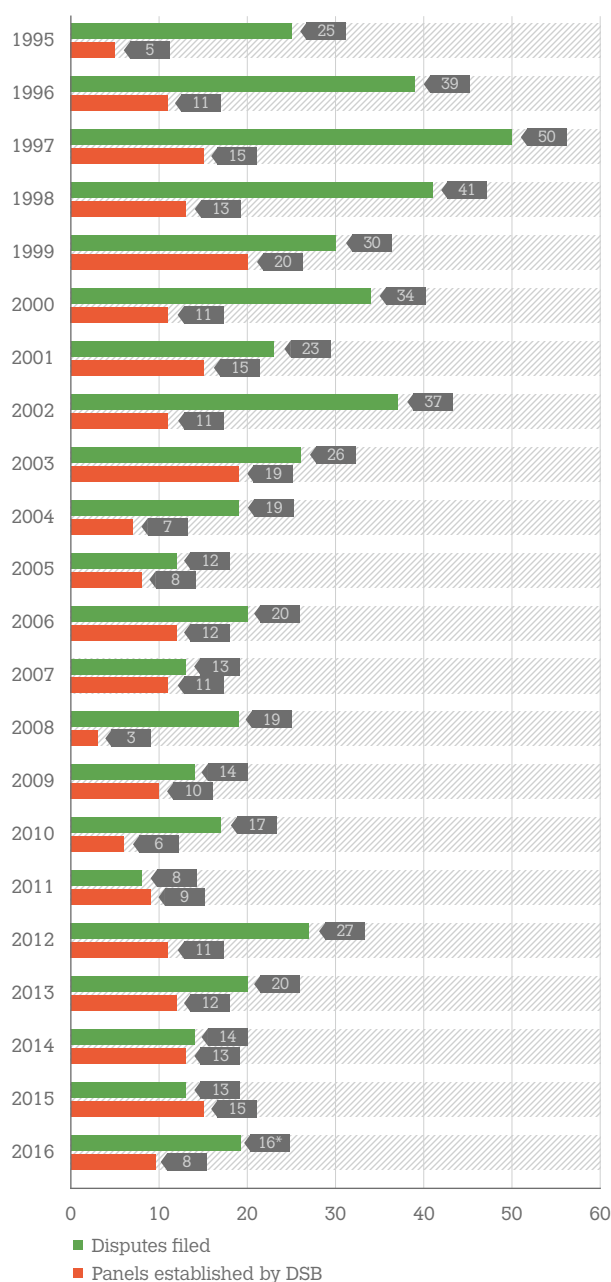
Turkey requested consultations with Morocco on anti-dumping measures on hot-rolled steel. This is Turkey's third request for consultations and its first since 2003. Ukraine requested consultations with Russia on certain restrictions.

**Figure 1: WTO agreements\* referred to in requests for consultations, 1995-2016 (number of times)**



\* GATS: General Agreement on Trade in Services; GATT 1994: General Agreement on Tariffs and Trade 1994; GPA: Agreement on Government Procurement; SCM: Subsidies and Countervailing Measures; SPS: Sanitary and Phytosanitary Measures; TBT: Technical Barriers to Trade; TRIMS: Trade-Related Investment Measures; TRIPS: Trade-Related Aspects of Intellectual Property Rights; WTO: Agreement Establishing the World Trade Organization.

**Figure 2: Disputes filed by WTO members, and panels established by the DSB, 1995 to 2016.**



\* A request for consultations was received on 20 December 2016 but was not circulated to the membership until January 2017. It is therefore not included in the total number of disputes filed in 2016.

The United States requested consultations with China on three different matters: export duties on raw materials, domestic support provided to agricultural producers, and China's administration of its tariff-rate quotas, including those for wheat, rice and corn.

Five consultation requests relating to compliance were filed in 2016.

**Table 2: Requests for consultations in 2016**

Title	DS No.	Complainant	Date of initial request	Agreements cited	Status as of 31 December 2016
Colombia – Spirits	DS502	European Union	13 January 2016	General Agreement on Tariffs and Trade (GATT) 1994	Panel established, but not yet composed
United States – Measures Concerning Non-Immigrant Visas	DS503	India	3 March 2016	General Agreement on Trade in Services (GATS)	In consultations
Korea – Pneumatic Valves	DS504	Japan	15 March 2016	GATT 1994 Anti-Dumping Agreement (ADP)	Panel composed
United States – Supercalendered Paper	DS505	Canada	30 March 2016	GATT 1994 Agreement on Subsidies and Countervailing Measures (SCM)	Panel composed
Indonesia – Measures Concerning the Importation of Bovine Meat	DS506	Brazil	4 April 2016	GATT 1994 Agreement on the Application of Sanitary and Phytosanitary Measures (SPS) Agreement on Import Licensing Procedures (Licensing) Agreement on Technical Barriers to Trade (TBT) Agreement on Agriculture (Agriculture)	In consultations
Thailand – Subsidies on Sugar	DS507	Brazil	4 April 2016	GATT 1994 Agriculture SCM	In consultations
China – Raw Materials II (US)	DS508	United States	13 July 2016	GATT 1994	Panel established, but not yet composed
China – Raw Materials II (EU)	DS509	European Union	19 July 2016	GATT 1994 Accession Protocol	Panel established, but not yet composed
United States – Certain Measures Relating to the Renewable Energy Sector	DS510	India	9 September 2016	GATT 1994 Agreement on Trade-Related Investment Measures (TRIMs) SCM	In consultations
China – Domestic Support for Agricultural Producers	DS511	United States	13 September 2016	Agriculture GATT 1994	In consultations
Russia – Measures concerning Traffic in Transit	DS512	Ukraine	14 September 2016	GATT 1994	In consultations
Morocco – Anti-Dumping Measures on Certain Hot-Rolled Steel from Turkey	DS513	Turkey	3 October 2016	ADP GATT 1994 Licensing	In consultations
United States – Countervailing Measures on Cold- and Hot-Rolled Steel Flat Products from Brazil	DS514	Brazil	11 November 2016	GATT 1994 SCM	In consultations
United States – Measures Related to Price Comparison Methodologies	DS515	China	12 December 2016	GATT 1994 ADP	In consultations
European Union – Measures Related to Price Comparison Methodologies	DS516	China	12 December 2016	GATT 1994 ADP	In consultations
China – Tariff Rate Quotas for Certain Agricultural Products	DS517	United States	15 December 2016	GATT 1994 Accession Protocol	In consultations
India – Certain Measures on Imports of Iron and Steel Products	DS518	Japan	20 December 2016	GATT 1994 Agreement on Safeguards	In consultations

**Table 3: Active appeals and panels as of 31 December 2016**

Title	WT/DS No.	Complainant	Third Parties	Dates of panel establishment and composition or appeal	Agreements cited
EC and Certain member States – Large Civil Aircraft	DS316 (Art. 21.5)	United States	Australia, Brazil, Canada, China, Korea, and Japan	13 October 2016 (date of appeal)	DSU SCM
US – Large Civil Aircraft	DS353 (Art. 21.5)	European Union	Australia, Brazil, Canada, China, Japan, Korea, and Russia	23 October 2012 (panel established) 30 October 2012	DSU GATT 1994 SCM
Thailand – Cigarettes (Philippines)	DS371 (Art. 21.5)	Philippines	Australia, Canada, China, European Union, Japan, Russia, Singapore, and United States	21 July 2016 (panel established) 16 December 2016	Agreement on Implementation of Article VII (Customs Valuation) GATT 1994
US – Tuna II (Mexico)	DS381 (Art. 21.5 – US)	Mexico	Australia, Brazil, Canada, China, Ecuador, European Union, Guatemala, India, Japan, Korea, New Zealand, and Norway	9 May 2016 (panel established) 27 May 2016	GATT 1994 TBT
US – Tuna II (Mexico)	DS381 (Art. 21.5 – Mexico II)	Mexico	Australia, Brazil, Canada, China, Ecuador, European Union, Guatemala, Japan, Korea, New Zealand, and Norway	22 June 2016 (panel established) 11 July 2016	GATT 1994 TBT
China – Broiler Products	DS427 (Art. 21.5 – US)	United States	Brazil, Ecuador, European Union, and Japan	22 June 2016 (panel established) 18 July 2016	ADP GATT 1994 SCM
Australia – Tobacco Plain Packaging	DS435 DS441 DS458 DS467	Cuba Dominican Republic Honduras Indonesia	Argentina, Brazil, Canada, Chile, China, Cuba, Dominican Republic, Ecuador, European Union, Guatemala, Honduras, India, Indonesia, Japan, Korea, Malawi, Malaysia, Mexico, New Zealand, Nicaragua, Nigeria, Norway, Oman, Panama, Peru, Philippines, Russia, Saudi Arabia, Singapore, South Africa, Chinese Taipei, Thailand, Trinidad and Tobago, Turkey, Ukraine, Uruguay, United States, Zambia, and Zimbabwe	25 September 2013 (panel established) 26 March 2014 (panel established) 25 April 2014 (panel established) 5 May 2014	GATT 1994 TBT TRIPS
US – Countervailing Measures (China)	DS437 (Art. 21.5)	China	Australia, Canada, European Union, India, Japan, Korea, Russia, and Viet Nam	21 July 2016 (panel established) 5 October 2016	GATT 1994 Protocol of Accession SCM
US – Anti-Dumping Methodologies (China)	DS471	China	Brazil, Canada, European Union, India, Japan, Korea, Norway, Russia, Saudi Arabia, Chinese Taipei, Turkey, Ukraine, and Viet Nam	18 November 2016 (date of appeal)	ADP
Russia – Pigs (EU)	DS475	European Union	Australia, Brazil, China, India, Japan, Korea, Norway, South Africa, Chinese Taipei, and United States	23 September 2016 (date of appeal)	SPS
Brazil – Taxation	DS472 DS497	European Union Japan	Argentina, Australia, Canada, China, Columbia, European Union, India, Japan, Korea, Russia, Singapore, South Africa, Chinese Taipei, Turkey, Ukraine, and United States	17 December 2014 (panel established) 26 March 2015 28 September 2015 (panel established) 29 September 2015	GATT 1994 SCM TRIMs
EU – Energy Package	DS476	Russia	Brazil, China, Columbia, India, Japan, Korea, Saudi Arabia, Ukraine, and United States	20 July 2015 (panel established) 7 March 2016	GATT 1994 Services (GATS) SCM TRIMs WTO (Agreement Establishing the World Trade Organization)

Title	WT/DS No.	Complainant	Third Parties	Dates of panel establishment and composition or appeal	Agreements cited
Russia – Commercial Vehicles	DS479	European Union	Brazil, China, India, Japan, Korea, Turkey, Ukraine, and United States	20 October 2014 (panel established) 8 December 2014	ADP GATT 1994
EU – Biodiesel (Indonesia)	DS480	Indonesia	Argentina, Australia, Brazil, Canada, China, India, Japan, Norway, Russia, Singapore, Turkey, Ukraine and United States	31 August 2015 (panel established) 4 November 2015	ADP GATT 1994 WTO (Agreement Establishing the World Trade Organization)
China – Cellulose Pulp	DS483	Canada	Brazil, Chile, European Union, Japan, Korea, Norway, Singapore, Uruguay and United States	10 March 2015 (panel established) 27 April 2015	ADP GATT 1994
Indonesia – Chicken	DS484	Brazil	Argentina, Australia, Canada, Chile, China, European Union, India, Japan, Korea, New Zealand, Norway, Oman, Paraguay, Qatar, Russia, Chinese Taipei, Thailand, United States and Viet Nam	3 December 2015 (panel established) 3 March 2016	Agreement on Agriculture Agreement on Pre-shipment Inspection GATT 1994 Import Licensing Agreement SPS TBT
EU – PET (Pakistan)	DS486	Pakistan	China and United States	25 March 2015 (panel established) 13 May 2015	GATT 1994 SCM
US – Tax Incentives	DS487	European Union	Australia, Brazil, Canada, China, India, Japan, Korea and Russia.	16 December 2016 (date of appeal)	SCM
US – OCTG (Korea)	DS488	Korea	Canada, China, EU, India, Mexico, Russia and Turkey	25 March 2015 (panel established) 13 July 2015	ADP GATT 1994 WTO (Agreement Establishing the World Trade Organization)
Indonesia – Iron or Steel Products (Chinese Taipei) (Viet Nam)	DS490 DS496	Chinese Taipei Viet Nam	Australia, Chile, China, EU, India, Japan, Korea, Russia, Chinese Taipei, Ukraine, United States, and Viet Nam	28 September 2015 (panel established) 28 October 2015 (panel established) 9 December 2015	GATT 1994 Safeguards Agreement
US – Coated Paper (Indonesia)	DS491	Indonesia	Brazil, Canada, China, EU, India, Korea, and Turkey.	28 September 2015 4 February 2016	GATT 1994 ADP SCM
EU – Poultry Meat (China)	DS492	China	Argentina, Brazil, Canada, India, Russia, Thailand, and United States	20 July 2015 (panel established) 3 December 2015	GATT 1994
Korea – Radionuclides (Japan)	DS495	Japan	Brazil, Canada, China, EU, Guatemala, India, New Zealand, Norway, Russia, Chinese Taipei, and United States	28 September 2015 (panel established) 8 February 2016	GATT 1994 SPS
Korea – Pneumatic Valves	DS504	Japan	Brazil, Canada, China, Ecuador, EU, Norway, Singapore, Turkey, United States, and Viet Nam	4 July 2016 (panel established) 29 August 2016	ADP GATT 1994
US – Supercalendered Paper	DS505	Canada	Brazil, China, EU, India, Japan, Korea, Mexico, and Turkey	21 July 2016 (panel established) 31 August 2016	GATT 1994 SCM



## Subject matter of the disputes

The requests for consultations in Table 2 show that WTO members have brought trade concerns in many different areas to the dispute settlement system. Several requests for consultations on anti-dumping measures concern products ranging from pneumatic valves to hot-rolled steel.

Panel proceedings in 2016 included a challenge to taxes and charges imposed by Brazil in the automotive sector and the electronics and technology industry, a challenge to EU measures in the energy sector and a challenge to testing and certification requirements regarding the presence of certain radionuclides in Japanese food products imposed by Korea after the accident at the Fukushima Daiichi nuclear power plant in Japan in March 2011. Panel proceedings in Australia's plain packaging requirements for tobacco products are drawing to a close.

Trade remedies disputes under way include those relating to EU anti-dumping measures on the importation of fatty alcohols from Indonesia, anti-dumping and countervailing measures imposed by the United States on coated paper products from Indonesia, and Russian anti-dumping measures imposed on commercial vehicles from the European Union.

Compliance proceedings are ongoing in disputes involving the United States and the European Union concerning large civil aircraft. The panel report in the dispute initiated by the United States concerning the European Union (EC and Certain Member States – Large Civil Aircraft) is before the Appellate Body. Circulation of the panel report in the dispute initiated by the European Union (US – Large Civil Aircraft (2<sup>nd</sup> complaint)) is expected in 2017. Compliance proceedings are also under way in Mexico's challenge of US measures on the labelling of tuna products.



# 17

11 panel reports and 6 Appellate Body reports were circulated during the year.

## Reports circulated or adopted by the DSB

Eleven panel reports were circulated during the year. Three of these panel reports were appealed. Two other panel reports circulated in 2015 were also appealed and the panel and Appellate Body reports in these disputes were adopted in 2016. Overall, the Legal Affairs and Rules divisions worked on 32 panel/arbitration proceedings and the Appellate Body dealt with nine appeals.

The panel and Appellate Body reports adopted in 2016 concerned anti-dumping measures on steel fasteners, the regulation of financial services and the prevention of harmful tax practices, measures aimed at preventing alleged illicit trade and money laundering, anti-dumping and countervailing measures on residential washing machines, tariff treatment of manufactured and agricultural products, measures relating to generation equipment for renewable energy and anti-dumping measures on biodiesel.

Table 4 shows panel and Appellate Body reports adopted or circulated (pending adoption) during 2016. It also lists panel and Appellate Body reports circulated in 2015 and adopted in 2016. The table also indicates the WTO agreements that were the subject of the disputes based on the panel and Appellate Body reports.

**Table 4: Reports circulated or adopted in 2016 (as of 31 December 2016)**

Dispute	Document symbol	Complainant	Respondent	Third parties	WTO agreements covered	Date of adoption or circulation/ appeal
EC – Fasteners (China) (Article 21.5 – China)	WT/DS397/RW WT/DS397/AB/RW	China	European Union	Japan, United States	ADP DSU GATT 1994	Panel and Appellate Body reports adopted on 12 February 2016
Argentina – Financial Services	WT/DS453/R WT/DS453/AB/R	Panama	Argentina	Australia, Brazil, China, Ecuador, European Union, Guatemala, Honduras, India, Oman, Saudi Arabia, Singapore, and United States	DSU GATT 1994 GATS	Panel and Appellate Body reports adopted on 9 May 2016
Colombia – Textiles	WT/DS461/R WT/DS461/AB/R	Panama	Colombia	China, Ecuador, El Salvador, European Union, Guatemala, Honduras, Philippines, and United States	DSU GATT 1994	Panel and Appellate Body reports adopted on 22 June 2016
Russia – Pigs	WT/DS475/R	European Union	Russia	Australia, Brazil, China, India, Japan, Korea, Norway, South Africa, Chinese Taipei, and United States	SPS GATT 1994	Panel report circulated on 19 August 2016 Appeal filed on 23 September 2016



Dispute	Document symbol	Complainant	Respondent	Third parties	WTO agreements covered	Date of adoption or circulation/ appeal
US – Washing Machines	WT/DS464/R WT/DS464/AB/R	Korea	United States	Brazil, Canada, China, European Union, India, Japan, Norway, Saudi Arabia, Thailand, Turkey, and Viet Nam	ADP DSU GATT 1994 SCM	Panel and Appellate Body reports adopted on 26 September 2016
Russia – Tariff Treatment	WT/DS485/R	European Union	Russia	Australia, Brazil, Canada, Chile, China, Colombia, India, Japan, Korea, Moldova, Norway, Singapore, Ukraine, and United States	GATT 1994	Panel report adopted on 26 September 2016
EC and certain member States – Large Civil Aircraft (Article 21.5 – United States)	WT/DS316/RW	United States	European Union	Australia, Brazil, Canada, China, Japan, and Korea	GATT 1994 SCM	Panel report circulated on 22 September 2016 Appeal filed on 13 October 2016
India – Solar Cells	WT/DS456/R WT/DS456/AB/R	United States	India	Brazil, Canada, China, Ecuador, European Union, Japan, Korea, Malaysia, Norway, Russia, Saudi Arabia, Chinese Taipei, and Turkey	DSU GATT 1994 SCM TRIMs	Panel and Appellate Body reports adopted on 14 October 2016
EU – Biodiesel	WT/DS473/R WT/DS473/AB/R	Argentina	European Union	Australia, China, Colombia, Indonesia, Malaysia, Mexico, Norway, Russia, Saudi Arabia, Turkey, and United States	ADP DSU GATT 1994 WTO Agreement	Panel and Appellate Body reports adopted on 26 October 2016
US – Anti-Dumping Methodologies (China)	WT/DS471/R	China	United States	Brazil, Canada, European Union, India, Japan, Korea, Norway, Russia, Saudi Arabia, Chinese Taipei, Turkey, Ukraine, and Viet Nam,	GATT 1994 ADP	Panel report circulated on 19 October 2016 Appeal filed on 18 November 2016
US – Tax Incentives	WT/DS487/R	European Union	United States	Australia, Brazil, Canada, China, India, Japan, Korea, and Russia	SCM	Panel report circulated on 28 November 2016 Appeal filed on 16 December 2016
EU – Fatty Alcohols (Indonesia)	WT/DS442/R	Indonesia	European Union	India, Korea, Malaysia, Thailand, Turkey, and United States,	GATT 1994 ADP	Panel report circulated on 16 December 2016
Canada – Welded Pipe	WT/DS482/R	Chinese Taipei	Canada	Brazil, China, European Union, Korea, Norway, United Arab Emirates, and United States	GATT 1994 ADP	Panel report circulated on 21 December 2016
Indonesia – Import Licensing Regimes (New Zealand)	WT/DS477/R	New Zealand	Indonesia	Argentina, Australia, Brazil, Canada, China, European Union, India, Japan, Korea, Norway, Paraguay, Singapore, Chinese Taipei, and Thailand	GATT 1994 Agreement on Agriculture Import Licensing Agreement Agreement on Preshipment Inspection (PSI)	Panel report circulated on 22 December 2016
Indonesia – Import Licensing Regimes (US)	WT/DS478/R	United States	Indonesia	Argentina, Australia, Brazil, Canada, China, European Union, India, Japan, Korea, Norway, Paraguay, Singapore, Chinese Taipei, and Thailand	GATT 1994 Agreement on Agriculture Import Licensing Agreement Agreement on Preshipment Inspection (PSI)	Panel report circulated on 22 December 2016

### Implementation, compliance and arbitration

Members are given a reasonable time to implement the DSB's recommendations and rulings in a dispute. Where the parties to a dispute are unable to agree on the length of time for implementation, they may resort to arbitration. In 2016, at the request of Panama, an arbitrator determined the reasonable period of time for Colombia to implement the DSB's recommendations and rulings in the dispute "Colombia – Textiles". Arbitration on the implementation period in the "US – Washing Machines" dispute, brought by Korea against US anti-dumping and countervailing measures, was pending at the end of 2016.

A compliance panel is established when there is disagreement over the existence or consistency of measures taken by a member to comply with the recommendations and rulings of the DSB. The conclusions made by a compliance panel may also be challenged before the Appellate Body. During 2016, the DSB adopted the panel and Appellate Body reports in the compliance dispute "EC – Fasteners", which concerned China's allegation that the European Union had not fully implemented the DSB recommendations and rulings in the dispute over EU anti-dumping measures on certain Chinese iron or steel fasteners. As of 31 December 2016, seven compliance proceedings were pending before panels and the Appellate Body.

As of 31 December 2016, two arbitration proceedings were pending concerning the appropriate level of retaliation, known as suspension of concessions, which the DSB can authorize in a case of non-compliance. In its dispute with the United States concerning the labelling of tuna products, Mexico requested authorization from the DSB to suspend concessions or other

obligations against the United States. The United States objected to the level requested by Mexico and the matter was referred to arbitration.

On 7 July 2016, the United States requested authorization from the DSB to suspend concessions or other obligations, alleging that India had failed to comply with the DSB recommendations and rulings in "India – Agricultural Products", which concerns import bans imposed by India purportedly over concerns about avian influenza. India objected to the level and the matter was referred to arbitration.

Following adoption of the panel report in 2011 (DS404), and the panel and Appellate Body reports (DS429) in 2015 in disputes brought by Viet Nam relating to US anti-dumping measures on warm water frozen shrimp from Viet Nam, Viet Nam and the United States notified the DSB on 18 July 2016 that they had reached a mutually agreed solution in both disputes.

### Translation services

Panel, Appellate Body and arbitration reports are circulated to WTO members and the public in the WTO's three languages (English, French and Spanish simultaneously). Translation of dispute settlement reports is very specialized work and requires experienced translators. As more panel proceedings are being completed, there is a commensurate pressure on the WTO's translation services. This increased workload in disputes is in turn resulting in some delays in translation services before reports can be circulated to WTO members and the public.

# Appellate Body

The Appellate Body had a busy year in 2016, with eight panel reports appealed and six Appellate Body reports circulated. In addition, an arbitration concerning the reasonable period of time for implementation of Dispute Settlement Body (DSB) recommendations and rulings was carried out in 2016. The DSB appointed two new Appellate Body members, Hong Zhao of China and Hyun Chong Kim of Korea. As of the end of 2016, the Appellate Body had circulated 144 reports.

## Increasing efficiency of appeal proceedings

In 2016, the Appellate Body continued with its efforts to ensure both the high quality of its reports and the completion of appellate proceedings as quickly as possible, despite the increasing workload. One measure, introduced in 2015, has been to incorporate executive summaries of written submissions provided by appeal participants in an addendum rather than for the Appellate Body to draft its own description of the arguments.

The Appellate Body also considered whether limiting the length of written submissions would enable better management of appellate proceedings and contribute to a more efficient use of resources. The Appellate Body initiated, in October 2015, a process of reflection and discussion with and among WTO members on limiting the length of the written submission. As differing views exist among members at this point, the Appellate Body decided not to pursue page limits on written submissions.

On 22 November 2016, Appellate Body Chair Thomas Graham delivered a special lecture on the state of the Appellate Body at an event co-hosted by the World Trade Institute, the University of Geneva Law School and the Graduate Institute of International and Development Studies.

### Background on the Appellate Body

The Appellate Body consists of seven members appointed by the Dispute Settlement Body (DSB). Each member is appointed for a term of four years, with the possibility of being appointed 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.



# 144

As of the end of 2016, the Appellate Body had circulated 144 reports.

The Chair drew attention to the increase in the number and volume of appeals. He recalled that the number of appeals, the number of issues appealed, and the number of pages of submissions have all grown significantly in recent years. He urged WTO members to work with the Appellate Body to “maintain, nurture and preserve the trust and credibility that has been built up over the years in this dispute settlement system, which is uniquely effective, but fragile, and which cannot be taken for granted.”

## Appointment of two new Appellate Body members

The second four-year term of Yuejiao Zhang (China) and the first four-year term of Seung Wha Chang (Republic of Korea) expired on 31 May 2016. Mr Chang was not reappointed for a second term and two processes were initiated to fill the two vacancies. The DSB agreed, at its meeting on 23 November 2016, to appoint Hong Zhao of China and Hyun Chong Kim of Korea (see below) as members of the Appellate Body for a term of four years, starting on 1 December 2016.

As of 31 December 2016, the seven Appellate Body members were:

- Ujal Singh Bhatia (India) (2011-2019), Chair of the Appellate Body in 2017
- Thomas R. Graham (United States) (2011-2019)
- Hyun Chong Kim (Korea) (2016-2020)
- Ricardo Ramírez-Hernández (Mexico) (2009-2017)



Members of the Appellate Body as of 31 December 2016, from left to right: Thomas R. Graham (Chair of the Appellate Body in 2016), Ricardo Ramírez-Hernández, Shree Baboo Chekitan Servansing, Hyun Chong Kim, Ujal Singh Bhatia, Peter Van den Bossche and Hong Zhao.

- Shree Baboo Chekitan Servansing (Mauritius) (2014-2018)
- Peter Van den Bossche (Belgium) (2009-2017)
- Hong Zhao (China) (2016-2020)

### Hong Zhao (China) (2016-2020)

Hong Zhao received her bachelor and master's degrees and Ph.D. in Law from the Law School of Peking University in China. She currently serves as Vice President of the Chinese Academy of International Trade and Economic Cooperation. Ms Zhao is also a guest professor at several universities, including the Universities of Peking, Fudan and International Business and Economics.

Previously, Ms Zhao served as minister counsellor in charge of legal affairs at China's mission to the WTO, during which time she served as Chair of the WTO's Committee on Trade-Related Investment Measures (TRIMs). She then served as Commissioner for Trade Negotiations at the Chinese Ministry of Commerce's Department for WTO Affairs, where she participated in several important negotiations on international trade, including the Trade Facilitation Agreement negotiations and negotiations on expansion of the Information Technology Agreement.

Ms Zhao has helped formulate many important Chinese legislative acts in economic and trade areas adopted since the 1990s and has experience in China's judiciary system, serving as juror at the Economic Tribunal of the Second Intermediate Court of Beijing between 1999 and 2004. She has also taught and supervised law students on international economic law, WTO law and intellectual property rights (IPR) at various universities in China.



In January 2017, Hong Zhao (China) was sworn in as a member of the Appellate Body.



## Hyun Chong Kim (Korea) (2016-2020)

Hyun Chong Kim received his bachelor and master's degrees and Juris Doctor from Columbia University in New York. He served as Trade Minister for Korea from 2004 to 2007, during which time Korea negotiated free trade agreements with more than 40 countries, including Korea's biggest trading partners.

As minister, Mr Kim was appointed facilitator for the services negotiations at the WTO's December 2005 Hong Kong Ministerial Conference and helped Korea host the November 2005 Asia-Pacific Economic Cooperation (APEC) leaders' summit in Busan. He served as Korea's Ambassador to the United Nations from 2007 to 2008 and was elected Vice President of the UN Economic and Social Council (ECOSOC) in 2008, where he worked towards achievement of the Millennium Development Goals.

Between 1999 and 2003, Mr Kim was a senior lawyer in the WTO's Appellate Body Secretariat and Legal Affairs Division, where he worked on cases related to IPR, services, TRIMs, safeguards and subsidies/countervailing measures, among others. More recently, Mr Kim oversaw patent and anti-trust litigation with a major Korean corporation and he is currently a professor at Hankuk University of Foreign Studies in Seoul, where he focuses on trade law and trade policies.



In January 2017, Hyun Chong Kim (Korea) was sworn in as a member of the Appellate Body.



Julio Lacarte-Muró, the first chair of the Appellate Body, passed away on 4 March 2016.

## Appellate Body mourns loss of Julio Lacarte-Muró

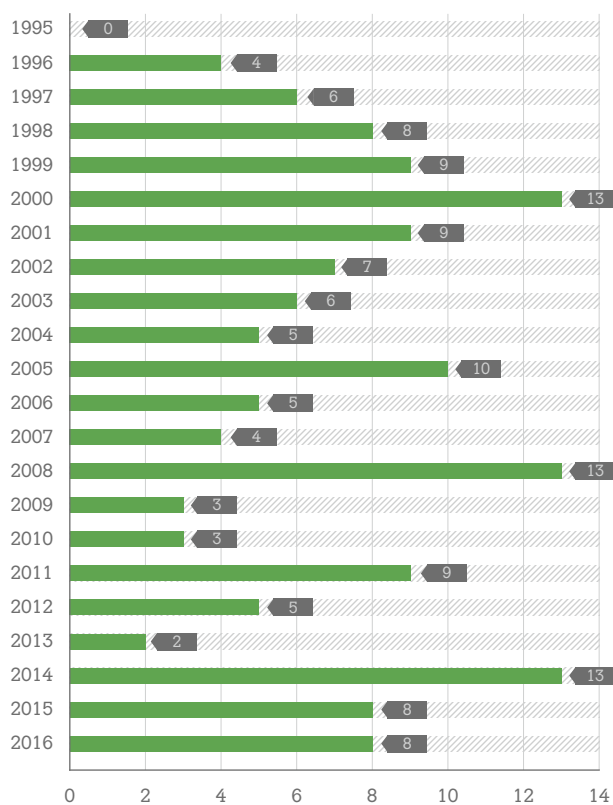
The Appellate Body mourned the loss in 2016 of former Appellate Body member Ambassador Julio Lacarte-Muró, who died at home in Uruguay on 4 March 2016 at the age of 97. Ambassador Lacarte had a sustained and profound influence on the multilateral trading system from the time of its origin in 1946 until the time of his death.

Having chaired the Uruguay Round negotiations on dispute settlement and successfully gavelled the text of the Dispute Settlement Understanding, Ambassador Lacarte was appointed in 1995 by the newly constituted Dispute Settlement Body as one of the original seven Appellate Body members. He remains the only Appellate Body member to have been nominated by a WTO member of which he was not a citizen (nominated by Canada). "He was a remarkable man, diplomat, and adjudicator, with a unique place in the history of global trade cooperation," said WTO Director-General Roberto Azevêdo.

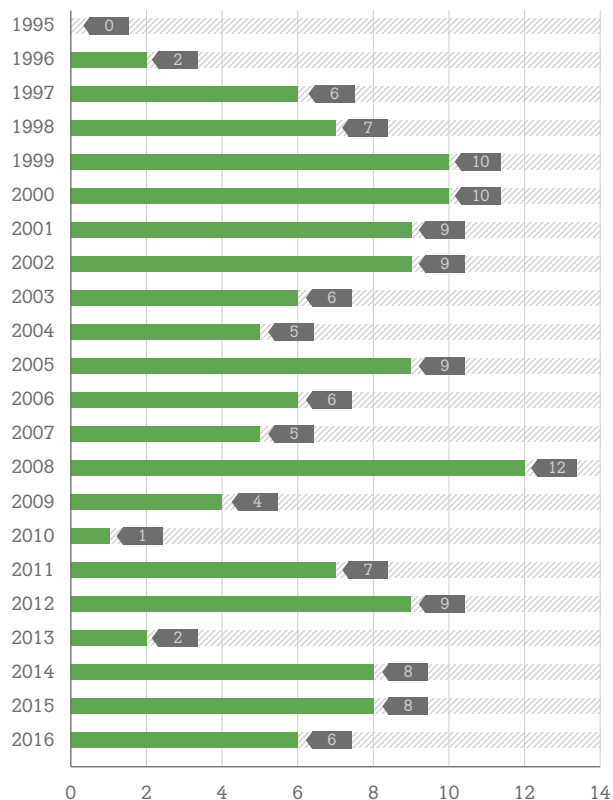
## Appeals

Eight panel reports were appealed in 2016 (see Figure 3 and Table 5). Six Appellate Body reports were circulated to WTO members (see Figure 4 and Table 6). In addressing the appeals, the Appellate Body clarified several issues of systemic significance. These included issues arising under the Anti-Dumping Agreement, the General Agreement on Tariffs and Trade (GATT) 1994, the General Agreement on Trade in Services (GATS), the Subsidies and Countervailing Measures (SCM) Agreement and the TRIMs Agreement.

**Figure 3:** Number of notices of appeal filed, 1995 to 2016



**Figure 4:** Number of Appellate Body reports circulated, 1995 to 2016\*



\* Some Appellate Body reports were issued as a single document covering two or more reports.

**Table 5: Appeals filed in 2016**

Panel reports appealed	Date of appeal	Appellant	Document number for notification of an appeal	Other appellant	Document number for notification of an other appeal
Colombia – Textiles	22 January 2016	Colombia	WT/DS461/6	No other appeal	-
US – Washing Machines	19 April 2016	United States	WT/DS464/7	Korea	WT/DS464/8
India – Solar Cells	20 April 2016	India	WT/DS456/9	No other appeal	-
EU – Biodiesel	20 May 2016	European Union	WT/DS473/10	Argentina	WT/DS473/11
Russia – Pigs (EU)	23 September 2016	Russian Federation	WT/DS475/8	European Union	WT/DS475/9
EC and certain member States – Large Civil Aircraft	13 October 2016	European Union	WT/DS316/29	United States	WT/DS316/30
US – Anti-Dumping Methodologies (China)	18 November 2016	China	WT/DS471/8	No other appeal	-
US – Tax Incentives	16 December 2016	United States	WT/DS487/6	European Union	WT/DS487/7

**Table 6: Appellate Body reports circulated in 2016**

Panel reports appealed	Date of appeal	Appellant	Document number for notification of an appeal	Other appellant	Document number for notification of an other appeal	Circulation date of report
EC – Fasteners (China)	9 September 2015	European Union	WT/DS397/21	China	WT/DS397/22	18 January 2016
Argentina – Financial Services	27 October 2015	Panama	WT/DS453/7	Argentina	WT/DS453/8	14 April 2016
Colombia – Textiles	22 January 2016	Colombia	WT/DS461/6	No other appeal	-	7 June 2016
US – Washing Machines	19 April 2016	United States	WT/DS464/7	Korea	WT/DS464/8	7 September 2016
India – Solar Cells	20 April 2016	India	WT/DS456/9	No other appeal	-	16 September 2016
EU – Biodiesel	20 May 2016	European Union	WT/DS473/10	Argentina	WT/DS473/11	6 October 2016

\* Appellate Body reports concerning disputes with the same title were circulated as a single document.