



# 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.

Didier Chambovey  
chaired the Dispute  
Settlement Body in 2021.



**140**  
Dispute settlement  
activity



**CHAIRPERSON**

# Dispute settlement activity in 2021

- › WTO members filed nine requests for consultations, the first stage of the dispute process, up from five in 2020.
- › Seven dispute settlement reports relating to nine separate disputes were circulated in 2021. The Dispute Settlement Body adopted one panel report. The other six panel reports were appealed.
- › Members were unable to agree on launching a selection process for the Appellate Body; the Appellate Body could hear no appeals.
- › Parties in four disputes agreed to resort to arbitration under Article 25 of the Dispute Settlement Understanding to decide on appeals of final panel reports issued in the disputes.

## Background

WTO members can bring disputes when they consider their rights are being infringed 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. The General Council convenes as the Dispute Settlement Body (DSB) to deal with disputes. The DSB has authority to establish dispute settlement panels, to adopt panel and Appellate Body reports, to maintain surveillance over the implementation of recommendations and rulings, and to authorize suspension of concessions and other obligations in the event of non-compliance with those recommendations and rulings.



## 24

Panel proceedings in 22 disputes and two arbitrations were ongoing as of end-December 2021.

## Activities in 2021

Lockdowns, travel restrictions and limited access to WTO premises due to the COVID-19 pandemic meant that panelists, arbitrators and delegations of WTO members were unable to participate in in-person meetings in Geneva.

However, in cooperation with the parties, and with assistance from the WTO Secretariat, panels and arbitrators developed procedures which allowed work to continue in most disputes. These procedures include additional exchanges of written submissions in place of substantive in-person meetings or substantive meetings conducted virtually.

During 2021, panels and arbitrators held 23 virtual substantive meetings with parties in 21 separate disputes. As of the end of December 2021, panel proceedings in 22 disputes and two arbitrations on the level of suspension of concessions – as a temporary remedy in the event of non-compliance with Dispute Settlement Body (DSB) rulings – were ongoing.

In the absence of consensus among WTO members to launch the Appellate Body selection process (see page 143), all seven positions on the Appellate Body remained vacant in 2021 and the Appellate Body was unable to hear appeals.

**Table 1:** Disputes initiated in 2021  
(requests for consultations)

Dispute settlement number	Short title	Date of initial request	Status on 31 December 2021
DS599	Panama – Import Measures (Costa Rica)	11/01/2021	Panel established but not composed
DS600	EU and Certain Member States – Palm Oil (Malaysia)	15/01/2021	Panel composed, panel proceedings ongoing
DS601	China – AD on Stainless Steel (Japan)	11/06/2021	Panel established but not composed
DS602	China – AD/CVD on Wine (Australia)	22/06/2021	Panel established but not composed
DS603	Australia – AD/CVD on Certain Products (China)	24/06/2021	In consultations
DS604	Russia – Domestic and Foreign Products and Services	22/07/2021	Panel established but not composed
DS605	Dominican Republic – AD on Steel Bars (Costa Rica)	23/07/2021	Panel established but not composed
DS606	EU – Provisional AD Duty on MEG (Saudi Arabia)	17/08/2021	In consultations
DS607	EU – Poultry Meat Preparations (Brazil)	08/11/2021	In consultations



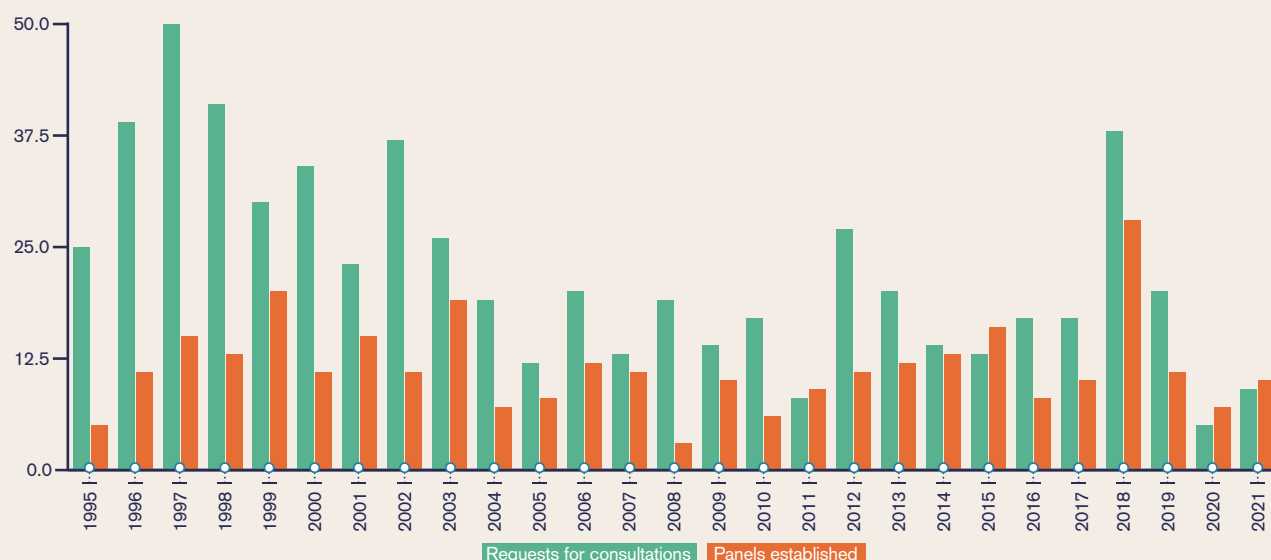
# 607

By the end of 2021, 607 disputes had been initiated since the entry into force of the WTO agreements in 1995.

### Requests for consultations

During 2021, WTO members filed nine requests for consultations concerning allegedly WTO-inconsistent measures (see Table 1), up from five in 2020. This is the first stage in the dispute settlement process.

By the end of 2021, a total of 607 disputes had been initiated under the WTO dispute settlement procedures since the entry into force of the WTO agreements in 1995 (see Figure 1).

**Figure 1:** Total number of disputes initiated and original panels established, 1995 to 2021

### Dispute settlement proceedings

If the parties to a dispute are unable to resolve their differences through consultations, the complainant can ask for a dispute settlement panel to be established by the DSB.

In 2021, the DSB established panels in 10 proceedings (see Table 2). In addition, a compliance panel ("China – TRQs", DS517) was established to determine whether China had complied with previous recommendations and rulings. A request by China in this dispute on the permissible level of suspension of concessions was referred to arbitration.

Five panels were composed during 2021 (see Table 3). Four of the panels were composed by DG Okonjo-Iweala at the request of the complainants. In "China – Canola Seed" (DS589), a dispute initiated by Canada, the parties agreed on the composition of the panel.

In June, the United States and the European Union announced an "understanding" regarding their WTO disputes over subsidies for large civil aircraft, which, among other things, suspended retaliatory tariffs related to this dispute for five years.

"I am delighted that the European Union and the United States have resolved their dispute over the production of large commercial aircraft. This has been one of the longest running and most taxing disputes in the history of the WTO and the two sides have shown that even the most seemingly intractable differences can be resolved," DG Okonjo-Iweala said in a statement.

During 2021, the parties in four disputes informed the DSB that they had agreed to use the so-called Multi-party Interim Appeal Arrangement (MPIA – see Table 4).

Under the MPIA, the parties to the disputes in question have agreed to resort to arbitration under Article 25 of the Dispute Settlement Understanding (DSU) to decide on appeals of any final panel report issued in the dispute if the Appellate Body continues to be unable to hear an appeal under Articles 16.4 and 17 of the DSU.

**Table 2: Original panels established in 2021**

Dispute settlement number	Short title	Complainant	Panel established
DS597	US – Origin Marking (Hong Kong, China)	Hong Kong, China	22/02/2021
DS592	Indonesia – Raw Materials	European Union	22/02/2021
DS600	EU and Certain Member States – Palm Oil (Malaysia)	Malaysia	28/05/2021
DS598	China – AD/CVD on Barley (Australia)	Australia	28/05/2021
DS589	China – Canola Seed (Canada)	Canada	26/07/2021
DS599	Panama – Import Measures (Costa Rica)	Costa Rica	27/09/2021
DS601	China – AD on Stainless Steel (Japan)	Japan	27/09/2021
DS602	China – AD/CVD on Wine (Australia)	Australia	26/10/2021
DS605	Dominican Republic – AD on Steel Bars (Costa Rica)	Costa Rica	20/12/2021
DS604	Russia – Domestic and Foreign Products and Services	European Union	20/12/2021

**Table 3: Panels composed in 2021**

Dispute settlement number	Short title	Date of constitution of panel
DS597	US – Origin Marking (Hong Kong, China)	29/04/2021
DS592	Indonesia – Raw Materials	29/04/2021
DS600	EU and Certain Member States – Palm oil (Malaysia)	29/07/2021
DS598	China – AD/CVD on Barley (Australia)	03/09/2021
DS589	China – Canola Seed (Canada)	10/11/2021

**Table 4:** Disputes in which parties have agreed to use the MPIA

Dispute settlement number	Short title	Date of notification of agreed procedures
<a href="#">DS602</a>	China – AD/CVD on Wine (Australia)	WT/DS602/3 16 December 2021
<a href="#">DS524</a>	Costa Rica – Avocados (Mexico)	WT/DS524/5/Rev.1 26 November 2021
<a href="#">DS589</a>	China – Canola Seed (Canada)	WT/DS589/5 24 September 2021
<a href="#">DS598</a>	China – AD/CVD on Barley (Australia)	WT/DS598/5 29 July 2021

## Reports and decisions

Seven dispute settlement reports relating to nine separate disputes were circulated in 2021. The DSB adopted one panel report during this period; the other six reports were appealed (see Table 5).



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Seven dispute settlement reports were circulated in 2021.

**Table 5:** Panel reports circulated and/or adopted in 2021

Dispute settlement number	Short title	Report circulated	Report appealed or adopted
<a href="#">DS538</a>	Pakistan – BOPP Film (UAE)	18/01/2021	Report appealed 22/02/2021 (Pakistan)
<a href="#">DS539</a>	US – Anti-Dumping and Countervailing Duties (Korea)	21/01/2021	Report appealed 19/03/2021 (US)
<a href="#">DS537</a>	Canada – Measures Governing the Sale of Wine (Australia)	25/05/2021	Mutually agreed solution. Report circulated 25/05/21
<a href="#">DS578</a>	Morocco – Definitive AD Measures on Exercise Books (Tunisia)	27/07/2021	Report appealed 28/07/2021 (Morocco)
<a href="#">DS562</a>	US – Safeguard Measure on PV Products (China)	02/09/2021	Report appealed 16/09/2021 (China)
<a href="#">DS577</a>	US – Ripe Olives from Spain	19/11/2021	Report adopted 20/12/2021
<a href="#">DS579</a>	India – Sugar and Sugarcane (Brazil)	14/12/2021	Report appealed 24/12/2021 (India)
<a href="#">DS580</a>	India – Sugar and Sugarcane (Australia)	14/12/2021	Report appealed 24/12/2021 (India)
<a href="#">DS581</a>	India – Sugar and Sugarcane (Guatemala)	14/12/2021	Report appealed 24/12/2021 (India)

\*Some panel reports were issued as a single document covering two or more disputes.

## Appeals

Notices of appeal were filed in eight disputes in 2021 (see Figure 2 and Table 6). As of 31 December 2021, appeals in 24 disputes were pending before the Appellate Body, which is currently unable to hear appeals.

### Background

Under the Dispute Settlement Understanding, the Appellate Body is composed of seven members appointed by the DSB. Any party to a dispute may appeal the panel report to the Appellate Body.

## Dispute settlement activity levels

Figure 3 shows the average of monthly dispute settlement proceedings since the inception of the WTO in 1995.

For the purposes of Figure 3, each proceeding (original panel or appeal, Article 21.5 panel on compliance or appeal and arbitration) is counted as a single instance where it relates to the same matter, regardless of the number of complainants involved. Figure 3 does not seek to reflect the relative complexity of different proceedings, which has also tended to increase over time.

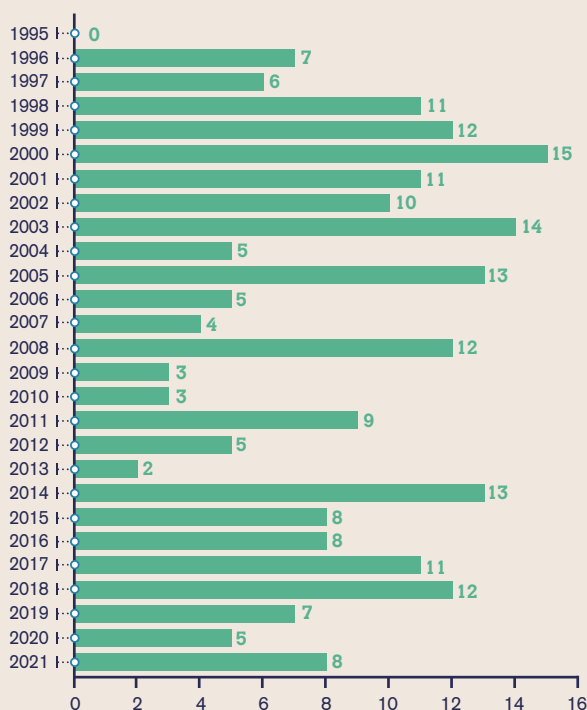
### WTO launches interactive GATT dispute settlement database

In 2021, the WTO launched a new GATT disputes database that allows users to search for information relating to the 317 GATT disputes brought by contracting parties from 1948 to 1995. The information provided includes documents, such as consultation requests and reports, serving adjudicators, the disputing parties, claims and defences of the parties, the procedural legal basis cited by the complainants, and products at issue in the proceedings.

**Table 6:** Notices of appeals filed in 2021

Panel report appealed	Date of appeal	Appellant	Document symbol
India – Sugar and Sugarcane (Brazil)	24 December 2021	India	WT/DS579/10
India – Sugar and Sugarcane (Australia)	24 December 2021	India	WT/DS580/10
India – Sugar and Sugarcane (Guatemala)	24 December 2021	India	WT/DS581/11
US – Safeguard Measure on PV Products (China)	16 September 2021	China	WT/DS562/12
Morocco – Definitive AD Measures on Exercise Books (Tunisia)	28 July 2021	Morocco	WT/DS578/5
US – Anti-Dumping and Countervailing Duties (Korea)	19 March 2021	United States	WT/DS539/9
Pakistan – BOPP Film (UAE)	22 February 2021	Pakistan	WT/DS538/5
Korea – Stainless Steel Bars	22 January 2021	Korea	WT/553/5

**Figure 2:** Number of disputes in which notices of appeal were filed, 1995 to 2021



**Figure 3:** Average of monthly active proceedings, 1995 to 2021



Note: The figures for 2020-21 do not include any appellate proceedings.

### One-page case summaries

In July, the WTO issued an updated edition of “One-Page Case Summaries”. The latest version provides a succinct summary of the key findings of every dispute panel report up to the end of 2020 and, where applicable, the subsequent Appellate Body report.

### John H. Jackson Moot Court Competition

Eighty-one universities representing 33 WTO members and observers participated in the regional rounds of the annual John H. Jackson Moot Court Competition, held from February to May 2021. The top 26 teams from the regional rounds qualified for the final round. Due to the COVID-19 pandemic, all rounds took place virtually.

Sri Lanka’s University of Colombo emerged as the winner while Belgium’s Katholieke Universiteit Leuven was the runner-up. The competition is organized by the European Law Students Association (ELSA) with the technical support of the WTO.

To mark 20 years of collaboration, the WTO and ELSA agreed to strengthen and expand their cooperation in organizing the annual competition. A memorandum of understanding was signed by WTO DDG Zhang and ELSA Vice President Louis Bremond on 23 July.



The winning team from the University of Colombo, Sri Lanka.