

Dispute settlement

Dispute settlement activity

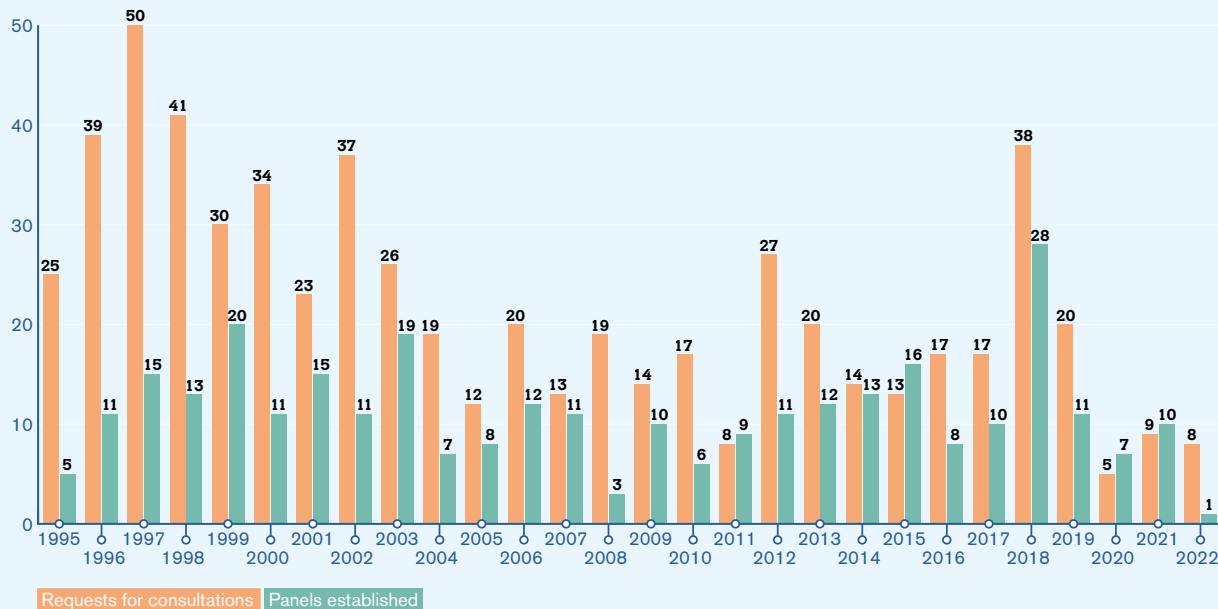
- From mid-March 2022, improvements regarding the COVID-19 pandemic allowed panels, arbitrators and parties to resume in-person meetings in Geneva. As of the end of December 2022, panel proceedings were ongoing in 18 disputes.
- Nine panel reports, two arbitration decisions and two arbitration awards were circulated during 2022.
- At the 12th Ministerial Conference (MC12) in June 2022, ministers agreed to talks on addressing concerns with respect to the dispute settlement system, with a view to securing a fully functioning system by 2024
- All seven positions on the Appellate Body remained vacant and no appeals could be heard.

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 (DSU). 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, maintain surveillance over the implementation of recommendations and rulings, and authorize suspension of concessions and other obligations in the event of non-compliance with those recommendations and rulings.

Table 5: Disputes initiated in 2022 (requests for consultations)

Dispute settlement number	Short title	Date of request	Status on 31 December 2022
DS608	Russia – Wood (EU)	20/01/2022	In consultations
DS609	Egypt – Import Registration Requirements (EU)	26/01/2022	In consultations
DS610	China – Goods (EU)	27/01/2022	Panel requested 07/12/22
DS611	China – IPRs Enforcement (EU)	18/02/2022	Panel requested 07/12/22
DS612	UK – CfD Local Content (EU)	28/03/2022	In consultations
DS613	EU – Citrus Fruit (South Africa)	27/07/2022	In consultations
DS614	Peru – Biodiesel (Argentina)	02/09/2022	In consultations
DS615	US – Semiconductors (China)	12/12/2022	In consultations

Figure 15: Disputes initiated and original panels established, 1995 to 2022

Requests for consultations

During 2022, WTO members filed eight requests for consultations concerning allegedly WTO-inconsistent measures (see Table 5), compared with nine in 2021. This is the first stage in the dispute settlement process.

By the end of 2022, a total of 615 disputes had been initiated under the Dispute Settlement Understanding (DSU) since the entry into force of the WTO agreements in 1995 (see Figure 15).

Dispute settlement proceedings

If the parties to a dispute are unable to resolve their differences through consultations, the complainant can ask the Dispute Settlement Body (DSB) to establish a dispute settlement panel, the second phase of the process.

In 2022, the DSB established one panel (“Australia – AD/CVD on Certain Products (China)”, DS603). In addition, six panels were composed – the third phase – during this period (see Table 6).

With a view to providing for review of panel reports in the absence of a functioning Appellate Body, parties to ten disputes had agreed, as of the end of 2022, to resort to an alternative appeal mechanism based on arbitration proceedings under Article 25 of the DSU. Eight of these disputes involved the use of the so-called multi party interim appeal arbitration arrangement (MPIA), to which 52 WTO members are participants.

The parties in two disputes – “US – Steel and Aluminium Products (EU)” (DS548) and “EU – Additional Duties (US)” (DS559) – informed the DSB that they had agreed to resort to arbitration under Article 25 of the DSU. In each case, the parties agreed that, upon the composition of the arbitrator, the dispute before the panel would be “immediately terminated through withdrawal of the complaint” and the arbitration would be “immediately and indefinitely suspended”.



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disputes initiated since the WTO was established in 1995

During 2022, WTO members filed eight requests for consultations concerning allegedly WTO-inconsistent measures.

In April 2022, the complainant (Qatar) in “Saudi Arabia – IPRs” (DS567) notified the DSB that it had agreed to terminate the dispute and not seek adoption of the panel report. In the dispute “United Arab Emirates – Goods, Services and IP Rights”, (DS526), in which Qatar was also the complainant, the panel’s authority lapsed on 16 January 2022.

Reports, awards and decisions

Nine panel reports were circulated in 2022. The DSB adopted two panel reports during this period, and one report was the subject of a Notification of Appeal to the Appellate Body (see Table 7).

Two arbitration awards under Article 25 of the DSU were circulated during the review period – “Turkey – Pharmaceutical Products (EU)” (DS583), and “Colombia – Frozen Fries (EU)” (DS591).

The parties to the two disputes resorted to Article 25 of the DSU regarding panel reports that had been issued to parties, but not circulated to WTO members. In DS583, the parties agreed to a set of arbitration procedures and notified the DSB accordingly. In DS591, the parties informed the DSB that in agreeing to procedures for arbitration, they were giving effect to the MPIA. In both cases, the parties agreed to “abide by the arbitration award, which shall be final” (see Table 8).

Two arbitration decisions under Article 22.6 of the DSU on the permissible level of retaliation as a temporary remedy in the event of non-compliance were circulated (see Table 8).

Appeals

One notification of appeal was filed in 2022 – by Indonesia in the dispute “Indonesia – Raw Materials” (DS592). As of 31 December 2022, appeals in 25 disputes were pending before the Appellate Body.

Given the ongoing absence of consensus among WTO members on launching the Appellate Body selection process, all seven positions remained vacant in 2022 and the Appellate Body was consequently unable to hear appeals.

Dispute settlement reform

At MC12 in June 2022, ministers agreed to talks on addressing concerns with respect to the dispute settlement system, with a view to securing a fully functioning system by 2024 (see page 10).



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panel reports were circulated in 2022

As of 31 December 2022, appeals in 25 disputes were pending before the Appellate Body.

Table 6: Panels composed in 2022

Dispute settlement number	Short title	Date of composition	Status on 31 December 2022
DS599	Panama – Import Measures (Costa Rica)	24/01/2022	Panel proceedings ongoing
DS601	China – AD on Stainless Steel (Japan)	24/01/2022	Panel proceedings ongoing
DS604	Russia – Domestic and Foreign Products and Services	22/02/2022	Panel proceedings suspended (8 March 2022)
DS602	China – AD/CVD on Wine (Australia)	04/03/2022	Panel proceedings ongoing
DS605	Dominican Republic – AD on Steel Bars (Costa Rica)	08/04/2022	Panel proceedings ongoing
DS603	Australia – AD/CVD on Certain Products (China)	05/09/2022	Panel proceedings ongoing

Table 7: Panel reports circulated and/or adopted in 2022

Dispute settlement number	Short title	Report circulated	Report adopted or appealed
DS546	United States – Safeguard Measure on Washers	08/02/2022	The DSB has agreed to extra time for the adoption/appeal of this report
DS524	Costa Rica – Avocados (Mexico)	13/04/2022	Adopted 31/05/2022
DS595	EU – Safeguard Measures on Steel (Turkey)	29/04/2022	Adopted 31/05/2022
DS592	Indonesia – Raw Materials	30/11/2022	Report appealed 08/12/2022 (Indonesia)
DS544	US – Steel and Aluminium Products (China)	09/12/2022	Adoption/appeal pending
DS552	US – Steel and Aluminium Products (Norway)	09/12/2022	Adoption/appeal pending
DS556	US – Steel and Aluminium Products (Switzerland)	09/12/2022	Adoption/appeal pending
DS564	US – Steel and Aluminium Products (Turkey)	09/12/2022	Adoption/appeal pending
DS597	US – Origin marking (Hong Kong, China)	21/12/2022	Adoption/appeal pending

Table 8: Arbitration awards and decisions circulated in 2022

Dispute settlement number	Short title	Date circulated
Article 25 DSU		
DS583	Turkey – Pharmaceutical Products (EU) (Article 25)	25/07/2022
DS591	Colombia – Frozen Fries (Article 25)	21/12/2022
Article 22.6 DSU		
DS437	US – Countervailing Measures (China) (Article 22.6 – US)	26/01/2022
DS505	US – Supercalendered paper (Article 22.6 – US)	13/07/2022

John H. Jackson Moot Court Competition

In 2022, 71 universities representing 39 WTO members and observers participated in the regional rounds of the John H. Jackson Moot Court Competition on WTO Law, which were held virtually from February to May 2022. The top 25 teams from these rounds qualified for the final round.

The WTO co-hosted the final round of the 20th anniversary edition of the competition, which took place between 28 June and

2 July. The University of Zurich emerged as the winner of the competition, and the Katholieke Universiteit Leuven (Belgium) was the runner-up. The competition is organized by the European Law Students Association (ELSA) with technical support from the WTO.

During September 2022, the WTO and the Geneva-based Advisory Centre on WTO Law provided training to potential coaches of teams from developing economies and least-developed countries that were interested in participating in the 2023 moot court competition.



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universities participated in the John H. Jackson Moot Court Competition on WTO law