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**WTO Dispute Settlement Mechanism in Contemporary Context**

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**Abstract**

In December 2019, a virus, Sars-Cov2, originated in Wuhan, China. In a matter of a few months, it spread its sinister wings & engulfed the whole world, forcing the World Health Organization (WHO) to declare it a pandemic on 11th March 2020. In the ensuing 5-6 months, it wrote such a tale of misery & devastation that there was mayhem all around. For a while, everyone thought that it would take a breather only after writing the obituary of mankind on planet earth. Not only this last year, God's green earth faced many other catastrophes. The world witnessed Australian bushfire, Indonesian Floods, Volcano Eruption in the Philippines, Earthquakes in India, Turkey, China, Iran, Russia & Philippines, Locust Swarms in East Africa & Asia, Cyclone Amphan in India & Bangladesh, Forest Fires in Uttarakhand, Floods In Assam in India, Snow in Antarctica Turning Green and many other such incidents that made us sit up & realize the importance of carefully planning for the unexpected events. All these unfortunate events affected the world terribly. But the body blow was delivered by the corona pandemic. It forced most of the Governments to impose lockdown to stop the spread of coronavirus, which disrupted & brought to a grinding halt almost everything under the sun & WTO was not an exception. This paper will explore the WTO's dispute settlement process & the impact of the COVID-19 pandemic on the dispute resolution process in light of the said statement.

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**The objective of the Study**

The outbreak of the COVID-19 pandemic found the world napping & changed the way of living, breathing & earning over 7 billion denizens of planet earth forever & for good. Developed economies of the world, which boasted of the best medical facilities & expertise, were found ill-prepared to save their citizens' precious lives. Despite their best efforts, they could do precious little and ended up becoming pallbearers only. While the developed countries had their own share of problems, the developing countries & emerging economies found it hard to procure PPE kits, face masks, ventilators, much-needed ICU beds, and other necessary medical goods. The COVID-19 pandemic created a surge in demand for medical goods & disturbed the entire supply & demand chain of medical goods in the international market & almost every country, whether rich or poor faced a shortage of medical goods & other essential items. Thus, we saw that the hoopla & the panic created by the corona pandemic unnerved both the developing & poor economies and destabilized even the super economies like the U.K., U.S.A, France, Russia & Germany. Hence, this seminar paper aims to understand the dispute settlement mechanism of WTO - its rules & procedure that governs the settlement process & the impact of the COVID-19 pandemic on the dispute settlement mechanism of WTO.

**Methodology**

The methodology opted for this Study is doctrinal. The research is based on both primary & secondary sources. The primary materials include - the WTO legal instruments, like Dispute settlement understanding, etc. Further, the secondary source of data such as research papers, articles, and blogs by experts on international law have been referred to reach a conclusion.

**Limitations**

This research is conducted during an ongoing pandemic with limited resources. As mentioned above in the methodology section, that paper has mainly relied upon secondary sources of data; the facts & figures provided below may vary from the real-time data. Further, due to the paucity of time, only rudimentary aspects of the WTO dispute settlement mechanism has been covered in this paper.

## Introduction

In the realm of world trade, the World Trade Organization (WTO), situated in Geneva, Switzerland, is entrusted with the responsibility of maintaining the smooth flow of international trade among the 164 member countries. The existing dispute settlement mechanism is the outcome of the Uruguay round. The dispute settlement undertaking (DSU) of WTO is the central pillar of multilateral trading, which provides an instrument for the settlement of trade disputes between conflicting governments. Generally, disputes arise when a member country consider an act of another member country as a violation of the rules & regulations of the WTO agreement. The WTO officially commenced on 1st January 1995. Till 1994 General Agreement on Tariffs & Trade 1947 (GATT) existed for almost five decades. GATT's main objective was to initiate international trade by liberalizing trade policies and reducing high tariff rates. WTO replaced GATT because GATT was ad-hoc in nature. GATT's dispute settlement mechanism was slow and less effective, but the existing WTO dispute settlement mechanism is faster & effective than GATT's dispute settlement mechanism. However, often allegations of systematic bias toward developed economies in decision making arise & give birth to a debate as to what reforms the entire process needs to become more transparent.

## History & Evolution

<sup>2</sup>World War II was such an upheaval that it turned the world upside down. This World War period saw the rise & fall of Hitler. This incident impacted almost all the countries on earth. So after 1945, several international organizations were established. United Nations organization was established replacing the League of Nations followed by the Bretton wood system. These efforts were aimed to create coordination among states and avoid World War like incidents in the future. After the establishment of various organizations, for instance, the World Bank & IMF, etc. The need for barrier-free world trade was felt by several countries. Regarding barrier-free trade, an idea was proposed in the Bretton woods system of establishing an International Trade Organization (ITO). A decision was taken in the Bretton wood system of establishing an organization for multilateral trading to be named International Trade Organization. So, eight rounds, negotiations were organized regarding this. Fifty-six countries participated in this conference & fifty-three countries signed the charter. The conclusion of this charter was the establishment of the International Trade Organization (ITO). However, the USA refused to ratify this charter, and it was impossible to proceed without the USA as the USA played a pivotal role in ending World War II and has always been a superpower. To end this deadlock,

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<sup>2</sup>From the GATT to the WTO: A Brief Overview ,<https://guides.ll.georgetown.edu/c.php?g=363556&p=4108235>  
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negotiations started again, and the result of that negotiation was the General Agreement on Tariffs & Trade (GATT) instead of the International Trade Organization (ITO). GATT was created on 30th October 1947 signed by 23 nations. Between 1948 & 1994, GATT took care of world trade and managed world trade affairs. The point to be noted here is that GATT was not an organization & it was just an agreement that provided a framework for multilateral trading. Another important event in the history of world trade is the Uruguay round. Uruguay round lasted between 1986-1994. It was the most significant negotiating mandate on trade ever agreed upon and finally concluded with the birth of the World Trade Organization (WTO).<sup>3</sup>The final act concluding the Uruguay round and officially establishing the WTO regime was signed on 15th April 1994, during the ministerial meeting at Marrakesh, Morocco, known as the Marrakesh Agreement.

### **Dispute Settlement Process**

Now we will understand the existing dispute resolution mechanism. WTO's dispute resolution mechanism is the result of the Uruguay Round. This mechanism provides a quick resolution of trade disputes. This mechanism applies to all the disputes that come under the WTO agreement. The dispute settlement body (DSB) is the instrument through which disputes are adjudicated. Generally, to get a dispute resolved, conflicting countries have to undergo mainly through following stages of the Dispute Settlement Process –

1. Consultations (Article.4)
2. Establishment of Panels (Article.6, 8, & 11)
3. Composition of Panel (Article.8)
4. Procedure of Panel (Article. 10&12)
5. Interim Report (Article 15)
6. Appeal (Article. 17)
7. Acceptance of report by DSB (Article. 30)

1. **Consultations** -<sup>4</sup> Before referring the dispute for mediation, conflicting parties are required to resolve the dispute through consultations; further, article 4 states that if a consultation request is made to a country, then the country to which such request is made is required to reply within ten days of receiving that request and in good faith enter into consultations within 30 days to resolve the dispute between them. Further, the country to which the request for consultations is made fails to reply to the consultation request within ten days of

<sup>3</sup> World Trade Organization - Wikipedia. <https://en.wikipedia.org/wiki/WTO>

<sup>4</sup>Article 4(1), Dispute Settlement Understanding

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receipt of such request or does not enter into consultation in the said 30 days period. In that case, the country that requested holding such consultation has the liberty to directly request the Dispute Settlement Body (DSB) to establish the panel for resolution of the dispute. Further, clause 7 of Article 4 states that if consultation fails to resolve the dispute within 60 days, then the complaining party may request the establishment of the panel. All such requests for consultation shall be notified in writing, including reasons for such requests to the Dispute Settlement Body by the complaining country.

**2. Establishment of Panels** - If conflicting parties fail to resolve the dispute by consultation, then in that scenario, the complaining party may file a request to establish the panel for resolution of the dispute. Request for the establishment of the panel shall be made in writing to the dispute settlement body. The request shall contain a summary of the issue with a sound legal basis. The panel is required to assist the Dispute Settlement Body in resolving the dispute. The panel has to understand the dispute's crux, including the facts of the case & issues involved in the matter. Panel examines whether it complies with the covered agreement between the member countries or not. The panel is required to provide its final report to the parties involved in the dispute within six months from the first hearing date.

**3. Composition of Panels** -<sup>5</sup>The panel shall include well-qualified governmental or non-governmental individuals, including people who have experienced in presenting cases before the panel. WTO secretariat selects such members. The panel shall consist of three individuals possessing the required qualification in clause 1 of article 8. The Secretariat of WTO aids the parties in the selection of panellists by creating a list of all governmental and non-governmental individuals having the required qualifications. Members have the liberty to make an addition to the list of individuals by suggesting the name of individuals who can aid the parties by providing any information related to international trade law or any of the matter as covered in the agreement because of which dispute arose. <sup>6</sup>The addition to the list can be made only after the approval of the Dispute Settlement Body.

Clause 7 of Article 8 states that if panelists are not selected within 20 days after the date of establishment of the panel, the Director-General, in consultation with the Chairman of Dispute Settlement Body and Chairman of relevant Council or Committee, can appoint panelists which they consider appropriate. The chairman of the Dispute Settlement Body then informs the members regarding the composition of the panel within ten days.

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<sup>5</sup>Article 8(1), Dispute Settlement Understanding

<sup>6</sup>Diva Rai, Dispute Settlement Mechanism under WTO – iPleaders, Para 11, <https://blog.ipleaders.in/dispute-settlement-mechanism-under-wto/>

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4. **Procedure of Panel** - The panelists shall, within one week after the composition of the panel, fix a timetable for the process to be followed by the panel. The panel has the power to decide a deadline for written submission to be made by both parties. Each party is required to submit their submission to the secretariat, which shall transfer each submission to the panel, and submission made by one party shall be sent to the opposite party.<sup>7</sup> At the first substantive meeting of the panel, the complaining party is provided with the first chance<sup>8</sup> to present their case ahead of the responding party. The third parties who have notified the Dispute Settlement Body that have an interest in the subject matter of the dispute are also asked to present their contentions during the same meeting. Any rebuttals between the parties shall be made at the subsequent meeting of the panel. Here, the responding party shall be the first to respond against the complaining party. The parties, before that meeting, are required to submit their written rebuttals to the panel. The panel, if they consider it necessary, may<sup>9</sup> put any questions before the parties to be answered in the duration of that meeting. Where after the examination, a solution has been reached between the parties, the panel shall submit a written report to the Dispute Settlement Body, which shall have a brief description of the case along with the solution which has been reached. Where the solution has not been found, the panel shall send a written report to the Dispute Settlement Body mentioning its findings of the case and recommendations, if any, it makes. The report has to be sent within six months of its examination. In case of urgency, including the case of perishable goods, the report has to be sent within three months. The maximum period during which the report has to be sent is nine months from the establishment of the panel.

5. **Interim report** - Based on the oral arguments & rebuttals that have been done and examination of the same, the panel shall issue a draft report to both parties. Both parties have to submit their statements in writing after receiving the draft report within the period decided by the panel. After the expiration of the decided period for receiving the comments from both parties, the panel shall issue an interim report, which will include new findings and conclusions. Both the parties, within the time provided by the panel, may submit their written request to revise its interim report. At the request made by the parties, the panel shall call for a further meeting to discuss the comments made by the parties to the dispute. If both the parties are

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<sup>7</sup> Dispute Settlement Mechanism under WTO – iPleaders, Para 13, <https://blog.iplayers.in/dispute-settlement-mechanism-under-wto/>

<sup>8</sup> Dispute Settlement Mechanism under WTO – iPleaders, Para 11, <https://blog.iplayers.in/dispute-settlement-mechanism-under-wto/>

<sup>9</sup> Dispute Settlement Mechanism under WTO – iPleaders, Para 12 <https://blog.iplayers.in/dispute-settlement-mechanism-under-wto/>

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satisfied with the solution reached, then such a revised interim report shall be the final panel report, and it will get circulated among the members. In case the parties are not satisfied with the outcome of the report reached, then any objections of the members shall be considered at the meeting of the Dispute Settlement Body. Such objections have to be reported at least ten days before the meeting of the Dispute Settlement Body. The final report shall be adopted by the Dispute Settlement Body within 60 days from the date panel report is circulated to the members unless any party to the dispute is unsatisfied with such report and notifies its decision of appeal to Dispute Settlement Body or the Dispute Settlement Body unanimously decides not to adopt such report, as the case may be. In case of an appeal, the report shall deem to be invalid for adoption by the Dispute Settlement Body unless the Standing Appellate Body provides its Appellate Body Report.

6. **Appeal-** Either of the parties unsatisfied with the ruling of the panel report can appeal to the Standing Appellate Body established by the Dispute Settlement Body. Only parties to the dispute can appeal to a panel report and not the third parties. Third parties can be allowed to be heard only in case such third party has notified in writing to the Dispute Settlement Body of its substantial interest in such dispute. The proceeding of the Appellate Body shall not exceed 60 days from the date a party to the dispute notifies its intention of appealing to the Appellate Body to the Dispute Settlement Body. In case of delay, the maximum period granted to the Appellate Body is 90 days. The Appellate Body has to submit in writing the Dispute Settlement Body its reasons for the delay together with the period within which the final decision is notified. The Appellate Body will not re-examine any shreds of evidence, issues, or previous arguments, but its examination shall be limited to laws covered in the panel report or legal interpretation evolved by the panelists. The Appellate Body has the power to uphold, modify, or reverse the panel report and provide a conclusive report.

7. **Acceptance of Report by dispute settlement Body** - The Dispute Settlement Body is required to either accept the Appellate Body report or reject it within 30 days after receiving such a report. The report can only be rejected unanimously.

#### **DURATION OF DISPUTE SETTLEMENT PROCESS**

<b>STAGE</b>	<b>DURATION</b>
Consultations	Sixty Days

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Establishment of Panel	Forty-Five Days
Panel reports to the parties	Six Months
Final Report	Three weeks
If DSB adopts reports without appeal	Sixty Days
Total duration if no appeal is made	One Year

### IN CASE OF APPEAL

If an appeal is made, then the Appellate Body Report	Sixty to Ninety Days
If DSB adopts the appellate body report	Thirty days
Total duration in case of appeal is made	One Year Three Months

### ROLE OF DIRECTOR-GENERAL IN DISPUTE SETTLEMENT PROCESS

Director-general, in his ex officio capacity, shall assist both the conflicting parties in resolving the dispute by providing his good offices, conciliation & mediation<sup>10</sup>.

Article 24 talks about Special Procedures Involving Least-Developed Country Members. So in cases where one country is developed, and another country is least developed, for instance, a country like Pakistan or Bangladesh or a developing country like India where dispute resolution through consultations had failed, such least developed country has the liberty to approach the Director-General's office and request him for providing his good offices, conciliation & mediation before the establishment of the panel if Director-General is satisfied with the request than he may provide his good offices, conciliation & mediation to resolve the dispute between conflicting parties.

Article 8 Clause 7 of the Dispute Settlement Undertaking provides that if both the parties fail to

<sup>10</sup>Article 5 (6), Dispute Settlement Understanding

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appoint the panelists within 20 days of the establishment of the panel, then under this scenario, the director-general, at the request of either of the party, in consultation with the <sup>11</sup>chairman of the dispute settlement body and chairman of relevant council or committee shall decide the composition of the panel by appointing panelists whom Director-General considers fit to hold that position I as per the relevant special & additional rules & procedures of covered agreements.

#### WTO SECRETARIAT

Duty of WTO's Secretariat is to assist the panel in resolving the dispute among member countries, especially on historical, legal & procedural aspects, along with secretarial & technical support<sup>12</sup>.

Secondly, the secretariat is responsible for providing legal support to member countries by making available a qualified legal expert to aid, assist & advise them with respect to dispute resolution. This provision is exclusive to developing countries. This expert is required to aid the developing country in a manner that will ensure the continued impartiality of the secretariat.

Lastly, the secretariat is required to conduct a special training course for member countries who want to keep updated their knowledge base regarding the dispute settlement practise & procedure.

#### WTO Appellate Body Crisis - Its Genesis & Implications

The Appellate Body is the important organ of the Dispute Settlement System (DSS) of WTO. It is the final pathway of the dispute settlement system at WTO. Ideally, it consists of 7 members, including the chairman<sup>13</sup>. But on 11th December 2019, the four-year term of two of the remaining three members came to an end. With this appellate body plunged into crises as it can no longer meet the three-member quorum required to review the appeals. This has brought the functioning of the appellate body to a grinding halt & dealt a body blow to DSS of WTO. It is not that this happened overnight. The USA was instrumental in bringing the appellate body to this stage. For a long, the U.S. has voiced concerns about several issues regarding the appellate process, such as long delays and the appropriate standards of appellate review. Notably, it has criticized the appellate body for straying from its original mandate by issuing decisions that add or diminish the rights and obligations of member states and hence amounts to judicial overreach. Washington's *modus operandi* to express its

<sup>11</sup>Celso Lafer | International IDEA. [https://www.idea.int/about-us/board\\_of\\_advisers/celso-lafer](https://www.idea.int/about-us/board_of_advisers/celso-lafer)

<sup>12</sup>Article 27, Dispute Settlement Understanding

<sup>13</sup>Aditya Rathore and Ashutosh Bajpai, The WTO Appellate Body Crisis: How We Got Here and What Lies Ahead?, [jurist.org, https://www.jurist.org/commentary/2020/04/rathore-bajpai-wto-appellate-body-crisis/](https://www.jurist.org/commentary/2020/04/rathore-bajpai-wto-appellate-body-crisis/)

discontent with the appellate body was to veto the appointment of new members, thereby steadily dwindling the roster of members. The USA was not alone in voicing concern about the functioning of the appellate body. But the other members would not go to the extent of blocking the appointment of members. Instead, they made proposals to reform the appellate review procedure and resolve outstanding issues with the appellate body. But appellate body becoming non-functional is not in the best interest of the majority of members. The WTO's dispute settlement system (DSS) is the most extensively used international adjudicatory mechanism, having received nearly a hundred complaints since its establishment in 1995. Now we know that there are 3 phases of DSS. First consultation, second adjudication (by the panel and appellate body proceedings), and third implementation (including countermeasures). The appellate body, established under Article 17 of WTO's Dispute Settlement Understanding, is an important leg of the adjudicative process and reviews appeals from panel proceedings. Now close to 67% of panel reports go to the appellate body for final settlement. Until the appellate body vacancies are filled, and it is made operational, ongoing trade disputes may be left pending indefinitely.

Now, what will happen if the crises remain unresolved and the wound is allowed to fester? Someone like the USA will move further away from multilateral trade to negotiating bilateral trade deals with some of its trading partners like Mexico, Canada, and China. For some countries seeking an early resolution, an option would be to meet bilaterally outside the WTO. Other countries have also started to give more attention to regional or multiregional trading blocs like OBOR, SCO & ASEAN. This does not augur well for the future of WTO as it will sink, and with it, the dream of a free, fair & transparent global multilateral trading system will pale into oblivion.

What is the way to wriggle out of the impasse created at DSS OF WTO? Major improvements are required at WTO right away. And to break this impasse, the concerns of the United States countries must be met so that it can unblock the appointment process of the members of the WTO should also think on the lines of establishing a compliance committee every year to audit the working of the Appellate Body. The committee would comprise of the chairs of all the major WTO committees. The committee would be tasked with the job of assessing whether the Appellate Body is performing its task adequately and, if not, then what remedial measures should be taken. Further adoption of the suggestions of DAVID WALKER (Who was appointed in February 2019 by the General Council Chair as a facilitator and was given the task

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of improving the functioning of the Appellate Body) may also help to rejuvenate the functioning of the Appellate Body.<sup>14</sup>

The bottom line is DSS of WTO should be kept alive & kicking so that the dream of a free, fair & transparent multilateral trading system remains viable.

#### Impact of COVID-19 on WTO Dispute Settlement Process

Ever since the WHO on 11th March 2020 declared COVID-19 a pandemic, the world changed forever. Ever since its birth, COVID-19, as of today, has affected over more than 90 million people worldwide & has killed 3.01 million people. Even now, despite the availability of much sought after vaccine against COVID-19, the fire & fury of the corona is not showing any signs of abatement. And in such a disastrous scenario where the dear precious life is at stake, trade & business naturally takes a back seat. Most countries at the peak of the corona pandemic imposed complete lockdown & all international modes of transport were grounded, rendering international travel impossible.

**Let us examine how the ongoing pandemic has affected the working of WTO and especially its dispute settlement systems.**

While most attention on the WTO's dispute settlement system has focused on the operation of the Appellate Body, the timeliness of disputes is often driven by the actions of the panel. Under Article 12 of the Dispute Settlement Understanding (DSU), the panel is to render their reports within six months (3months in urgent matters) and no longer than nine months after the panel is composed. Few if any panels in recent years have remotely come close to a nine-month report deadline. And now, to add insult to injury, panels have regularly used the existence of pandemic as an excuse for a lengthy delay in the likely release of the panel report. With the COVID-19 pandemic & resulting limitation on in-person meetings at WTO & travel restriction, the panel process has been further complicated.

Many governments adopted restrictive measures on the trade of certain products for the purpose of securing what they considered to be essential medical supplies to combat COVID-19, which might adversely affect the interest of other WTO members. These measures might fall within the scope of the agreement on the application of sanitary and Phytosanitary Measures. There is a possibility that patent protection may be undermined when WTO members tolerate unauthorized production of medical products to address emergencies without the issuance of

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<sup>14</sup>AARSHI TIRKEY, The WTO's appellate body crisis: Implication for trade rules and multilateralism, orfonline.org, <https://www.orfonline.org/expert-speak/the-wtos-appellate-body-crisis-implication-for-trade-rules-and-multilateralism-60198/>



compulsory licenses. This may raise claims of violation under Articles 28<sup>15</sup> and 30<sup>16</sup> of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement), and now vaccines have developed issues such as whether the issuance of compulsory licenses complies with Articles 31<sup>17</sup>. Already there were whispers of inordinate delays in working of WTO. With the COVID-19- pandemic and the resulting limitations on in-person meetings at the WTO and travel restrictions, the panel process has been further complicated. And the new crop of problems that have come with the pandemic has made the scenario more gloomy, And thus, we see that the pandemic proved to be the proverbial last straw on the camel's back. But then, is there no salvation or redemption in the working of WTO. Yes, there is; some wise man rightly said GOD first made a solution & then he made a problem. And the statement by Australia on behalf of other 14 countries on 28th September 2020 meeting at WTO reaffirming their faith in the WTO dispute settlement mechanism. On 28th September 2020, at the WTO meeting, Australia said an open global trading system would be essential for broad-based, sustainable economic recovery. <sup>18</sup>We, therefore, strongly reaffirm our support for the rules-based multilateral trading system and the central role of the WTO. We will continue to act in a manner consistent with our WTO rights and obligations. We will refrain from raising new unjustified barriers to investment or to trade in goods and services. Thus, the issue of delay caused by the pandemic is an important one to address to maintain the timely operation of panels. Certainly, WTO Members should identify challenges they face in the midst of ongoing pandemic to engage in remote/virtual hearings if in-person events are not possible. Where problems exist, the WTO Secretariat, in conjunction with other organizations, should look to see what technical assistance can be provided to permit active participation. Similarly, if issues affect the ability of panellists to handle matters remotely, there should be a review of options that may exist to

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<sup>15</sup> Agreement on Trade-Related Aspects of Intellectual Property Rights [hereinafter TRIPS Agreement] art. 28, Apr. 15, 1994, 1869 U.N.T.S. 299. This provision provides the general rule on the basic exclusive rights that WTO members must provide to patent owners.

<sup>16</sup> art. 30. This provision provides the conditions that WTO members may set limited exceptions to the exclusive rights enjoyed by patent owners.

<sup>17</sup> art. 31. TRIPS Agreement article 31 sets out the general conditions that WTO members must observe when issuing compulsory license to obtain sufficient supply of the cure or vaccine at issue, while Article 31 *bis* and the annex allows third country to issue compulsory license on COVID-19 cures and vaccines for the purpose of exporting it to developing or least-developed countries; WTO, Declaration on the TRIPS Agreement and Public Health, 6, WTO Doc. WT/MIN(01)/DEC/2 (Nov. 14, 2001). The latter is installed into the TRIPS Agreement as it is recognized by WTO members that "WTO Members with insufficient or no manufacturing capacities in the pharmaceutical sector could face difficulties in making effective use of compulsory licensing under the TRIPS Agreement."

<sup>18</sup>Bronwyn Lincoln, The role of the WTO in international trade post COVID-19, 2020, <https://www.lexology.com/library/detail.aspx?g=1d0ab073-de42-4be9-961d-593c7d5adca5>

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facilitate panelists' ability to participate. Again, the secretariat should seek information from Members on challenges they face in participating in dispute proceedings and should have information on potential panellists on the same types of issues<sup>19</sup>.

### Findings-

Established in 1995, the WTO is the busiest international organization in the world. WTO till now has dealt with around 600 cases. WTO has a robust dispute settlement mechanism. The Dispute settlement understanding (DSU) is the instrument for the settlement of trade disputes. DSU, inter alia, contains provisions for protection & promotion of the interest of the least developed countries. WTO's dispute settlement mechanism is an effective process. The USA has used this mechanism the most, along with some other European countries. Generally, WTO takes a maximum of one year to resolve a trade dispute if conflicting parties fail to resolve it by consultation. Mediation & arbitration are the main methods used by WTO to resolve disputes. At present, the Appellate Body is unable to review appeals [because of ongoing vacancies](#). The term of the last sitting Appellate Body member expired on 30th November 2020.

### Conclusion

Ever since its (WTO) inception in 1995, many member countries have utilized its dispute settlement system to resolve their bilateral or multilateral trade-related disputes. A central objective of the WTO dispute settlement system is to provide security & predictability to the multilateral trading system. But there has been a raging debate as to whether WTO has succeeded or failed in resolving the trade dispute between or among member countries.

Thus, we see that proponents & opponents of the WTO dispute settlement system argue endlessly about its effectiveness in resolving disputes. But if we take a balanced view of its success & failure rate, we have to concede that by and large, it has served the member nation in good stead. NOW, as things stand today (more so after the reassuring statement by Australia), WTO has to reenergize itself and ward off the debilitating ill effects of the pandemic as quickly as possible. COVID-19 or no COVID-19, WTO, especially its dispute settlement mechanism,

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<sup>19</sup>Hsien Wu, WTO DISPUTE SETTLEMENT IN THE WAKE OF CORONAVIRUS DISEASE 2019 (COVID-19): EXPLORING THE POSSIBLE BENEFITS AND LIMITS OF CONTEMPORARY MECHANISMS, 13(1) CONTEMP. ASIA ARB. J. 291,2020

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has to rise to the occasion & perform the preeminent role assigned to it by member nations



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