

# *From Paralysis to Renewal: Crisis Tracing and Systemic Reform of the WTO Dispute Settlement Mechanism*

De Paralisia a Renovação: Rastreo da Crise e Reforma Sistêmica do Mecanismo de  
Solução de Controvérsias da OMC

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## ABSTRACT

The increasing complexity of international disputes and the significant shifts in political and economic relations underscore the imperative for reforming the current WTO dispute settlement mechanism. The paralysis of the Appellate Body and the diminishing authority and credibility of the mechanism, exacerbated by the United States' trend toward de-judicialization, reveal fundamental flaws in WTO rules and the fragility of the multilateral trading system. Key factors contributing to the crisis include the challenges of adapting traditional rules to the new environment, the encroachment of sovereign interests, the risks of politicization, and the inadequacies of institutional design and effectiveness. At the core of the crisis is the clash between the inherent deficiencies of the system and the proactive judicialization trend, which necessitates centering reform efforts on rehabilitating the Appellate Body's judicial functions. Systemic reforms should follow a two-pronged approach: modernizing the rules while improving institutional mechanisms. Additionally, reform efforts should focus on redefining the boundaries of judicialization and adjusting the dispute settlement models within the framework of regional trade agreements, thereby enhancing the resilience of the system and establishing a more inclusive and diverse dispute settlement mechanism.

**Keywords:** WTO dispute settlement mechanism; Appellate Body; Judicialization; Multilateral trading system.

## RESUMO

A crescente complexidade das disputas internacionais e as mudanças significativas nas relações políticas e econômicas geraram uma demanda urgente pela reforma do atual mecanismo de solução de controvérsias da OMC. A paralisia do Órgão de Apelação e a diminuição da autoridade e credibilidade do mecanismo de solução de controvérsias da OMC, agravada pela tendência dos Estados Unidos em direção à desjudicialização, destacaram as falhas sistêmicas nas regras da OMC e a fragilidade do sistema de comércio multilateral. Os principais fatores que contribuem para a crise incluem os desafios de adaptação das regras tradicionais ao novo ambiente, a compressão dos interesses soberanos, os riscos de politização e as deficiências no design institucional e na eficácia. No cerne da crise está o conflito entre as deficiências inerentes do sistema e a tendência proativa de judicialização, o que enfatiza a necessidade do Órgão de Apelação – renomado por sua natureza judicial – desempenhar um papel crucial na resolução da crise. As reformas sistêmicas devem seguir

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uma abordagem abrangente, desde a atualização das regras até a melhoria dos mecanismos institucionais. Além disso, os esforços de reforma devem focar na redefinição dos limites da judicialização e na adaptação dos modelos de solução de controvérsias no âmbito dos acordos comerciais regionais, visando aumentar a resiliência do sistema e estabelecer um mecanismo de solução de controvérsias mais inclusivo e diverso.

**Palavras-chave:** Mecanismo de solução de controvérsias da OMC; Órgão de Apelação; judicialização; sistema de comércio multilateral

## SUMMARY:

1. INTRODUCTION; 2 CRISIS OF EXISTING MECHANISM AND ITS CAUSES; 2.1 A SYSTEMATIC EXAMINATION OF THE DSB: THE APPELLATE BODY CRISIS AS A FOCAL POINT; 2.2 CAUSES OF THE CRISIS IN THE WTO DISPUTE SETTLEMENT MECHANISM; 2.2.1 External causes; 2.2.2 Internal causes; 3 WTO DISPUTE SETTLEMENT MECHANISM REFORM PROGRAM; 4 CONCLUSIONS; 5. REFERENCES

## 1 INTRODUCTION

An effective international dispute settlement mechanism plays a crucial role in maintaining global cooperation, stabilizing international legal orders. The 1945 Charter of the United Nations<sup>2</sup> formally establishes the principle of the peaceful settlement of international disputes, which marked a historic shift to peaceful dispute settlement. From the perspective of settlement methods, both political and legal approaches are commonly applied. Political methods mainly include negotiation, consultation, investigation, good offices and conciliation; legal methods include arbitration and judicial processes. By overcoming the uncertainty and lack of procedural clarity in the political settlement model, and addressing the inflexibility and lower efficiency of the judicial model, the mixed settlement model has emerged. This model combines the strengths of both approaches, offering a broader scope of application by integrating diplomatic and judicial elements. The WTO Dispute Settlement Mechanism and the North American Free Trade Agreement (NAFTA) dispute resolution system are notable examples.

The development of international dispute resolution mechanisms from diplomatic to judicial approaches (Zhao, 2024) aligns with the expectations of the international community for the settlement of international disputes within the framework of international law. It also provides a more just, authoritative, and efficient approach to global governance. The WTO dispute settlement mechanism has been hailed as the "jewel in the crown" of the multilateral trading system due to its judicial nature. Its construction is based on the dispute settlement principles of the General Agreement on Tariffs and Trade (GATT)<sup>3</sup> and the

<sup>2</sup> In <https://www.un.org/en/about-us/un-charter>. Last access: April 26, 2025.

<sup>3</sup> In <https://legal.un.org/avl/ha/gatt/gatt.html>. Last access: April 26, 2025.

Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU)<sup>4</sup> as the main body of rules. Specifically, the mechanism is a two-tier review system consisting of a panel and an appellate body, with specific provisions on process setup, settlement cycle, and enforcement of rulings, and relies on the principles of "mandatory jurisdiction" and "reverse consensus" to enhance the effectiveness and authority of enforcement. It also relies on the principles of "compulsory jurisdiction" and "reverse consensus" to enhance the effectiveness and authority of enforcement. To a certain extent, this mechanism has circumvented the coercion of political power on the direction of international disputes, and has played a positive role in guiding the implementation and realization of the WTO principles<sup>5</sup> of "non-discrimination", "fair trade" and "transparency", as well as providing a positive guidance for international trade at the level of international law. It also lays a solid foundation for the standardization of international trade under international law.

However, despite its remarkable achievements since its establishment, the Dispute Settlement Body (DSB) has revealed its obvious limitations against the background of increasingly complex international disputes and drastic changes in political and economic relations, and has been plunged into a serious institutional crisis centered on the "paralysis of the Appellate Body", which has challenged the status of the WTO as the core platform for global trade governance. This crisis should not only be discussed in the context of political games among big countries, but also points to the new trend of global economic governance and the urgent need for reform of the dispute settlement mechanism, which is a good opportunity to rethink the limits of "judicialization", face up to the system's inherent defects, and actively adapt to the complex international economic and trade relations. On the basis of the systematic diagnosis of the economic and trade system, the political power factor should also be included as a variable, and in conjunction with the development trend of the new field of international law, a feasible long-term and short-term reform plan should be put forward, with a view to restoring the legitimacy and operational efficiency of the WTO dispute settlement mechanism at an early date.

## 2 CRISIS OF EXISTING MECHANISM AND ITS CAUSES

### 2.1 A SYSTEMATIC EXAMINATION OF THE DSB: THE APPELLATE BODY CRISIS AS A FOCAL POINT

The crisis in the Appellate Body (AB) began in 2017 when the United States accused the AB of "judicial activism," alleging that it was overstepping its mandate and obstructing the selection process of AB

<sup>4</sup> In [https://www.wto.org/english/docs\\_e/legal\\_e/dsu\\_e.htm](https://www.wto.org/english/docs_e/legal_e/dsu_e.htm). Last access: April 26, 2025.

<sup>5</sup> In <https://exportsmitra.com/docs/world-trade-organization-wto-and-its-principles/>. Last access: April 26, 2025.

members. This legitimacy crisis persisted until 2019 when the AB effectively ceased to function due to the lack of a quorum—fewer than three members were available to initiate case reviews (Article 17), resulting in over 30 cases failing to reach a final judgment (e.g., United States — Certain Measures on Steel and Aluminum Products, DS548)<sup>6</sup>. As a core component of the WTO dispute settlement mechanism, the AB's dysfunction posed a significant risk to the entire Dispute Settlement Body (DSB), threatening to undermine its credibility and authority. This erosion of trust in the AB could lead to a broader crisis of confidence in the DSB itself, potentially undermining its role in the global trade governance system. Consequently, the situation has exacerbated the rise of unilateralism and trade protectionism.

Although the United States' advocacy for de-judicialization reforms and its protectionist political tendencies have contributed to the crisis, concerns regarding the legitimacy of the AB are also rooted in substantive legal issues. Under Article 17 of the Dispute Settlement Understanding (DSU), the AB is authorized only to review legal issues in panel reports and cannot reopen factual findings. However, in certain cases, the AB has been found to exceed its mandate by revisiting factual matters, which raises further doubts about its authority. As some scholars have noted, "The Appellate Body's continuous expansion and assertiveness in its approach to treaty interpretation—from textual interpretation to systemic and evolutionary interpretations—reflect its proactive and energetic judicialization tendencies" (Gao et al, 2023). Furthermore, the AB's delays in adjudication and its handling of certain cases have generated significant dissatisfaction. For example, the Appellate Body adopted a systemic approach in "Korea — Definitive Safeguard Measure on Imports of Certain Dairy Products"(DS98)<sup>7</sup>, "United States — Standards for Reformulated and Conventional Gasoline"(DS2)<sup>8</sup> cases, while employing an evolutionary approach in "United States — Import Prohibition of Certain Shrimp and Shrimp Products"(DS58)<sup>9</sup> and China Publications and "China — Measures Affecting Trading Rights and Distribution Services for Certain Publications and Audiovisual Entertainment Products" (DS363)<sup>10</sup> cases.

The paralysis of the AB has led to the stagnation of the "rule-oriented" national economic and trade dispute settlement mechanisms, and the restoration of the AB remains a "consensus" among WTO members, albeit one shaped by divergent national interests. However, this so-called "consensus" is predicated on the preservation—or at least the non-exclusion—of the existing Multilateral Trading System (MTS). Despite the call at the 12th Ministerial Conference<sup>11</sup> for the establishment of a fully and well-functioning dispute settlement

<sup>6</sup> In [https://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds548\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds548_e.htm). Last access: April 26, 2025.

<sup>7</sup> In [https://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds2\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds2_e.htm). Last access: April 26, 2025.

<sup>8</sup> In [https://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds2\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds2_e.htm). Last access: April 26, 2025.

<sup>9</sup> In [https://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds58\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds58_e.htm). Last access: April 26, 2025.

<sup>10</sup> In [https://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds363\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds363_e.htm). Last access: April 26, 2025.

<sup>11</sup> In <http://images.mofcom.gov.cn/sms/202206/20220624191815994.pdf>. Last access: April 26, 2025.

system accessible to all members by 2024, the 13th Ministerial Conference<sup>12</sup> failed to reach a textual consensus on this issue due to the U.S. "veto." From "crisis" to "impasse," the resolution of the AB's status will ultimately depend on the achievement of a breakthrough in negotiations. Some scholars contend that these negotiations are primarily a "response to U.S. concerns," reflecting the dynamic nature of U.S. positions and developments over time. The negotiation process among WTO members is thus a "multi-party game," characterized by shifting objectives and presenting systemic complexities, including contingencies and non-linearity (Yang,2024).

The crisis of the WTO dispute settlement mechanism cannot be solely attributed to the Appellate Body's dysfunction. Some scholars argue that the divergence in WTO members' interpretations of rules stems from the absence of new rules and disciplines to guide the process, which can largely be attributed to the paralysis of trade negotiations. (Jara et al,2025) Additionally, someone suggests that, beyond the internal shortcomings of the mechanism and the weakening of its authority, the crisis reflects a broader crisis of the multilateral trading system on which the WTO depends, as well as a maladaptation to international law (Li,2024). Furthermore, the crisis of the WTO dispute settlement mechanism signals a deeper issue concerning the rule of law in global trade, with the lack of new rules and the stagnation of remedies being key contributing factors. As such, the complexity of the crisis in the WTO dispute settlement mechanism is undeniable, and as an internally linked and organically integrated system, it underscores the necessity of systematic reforms at a more macro level.

## 2.2 CAUSES OF THE CRISIS IN THE WTO DISPUTE SETTLEMENT MECHANISM

### 2.2.1 External causes

Firstly, the interaction between WTO rules and the external world can be understood as a process of adaptation between a static system of rules and the rapidly evolving global dynamics. The rate and complexity of change in the world economy and trade are incalculable, placing unprecedented adaptive pressure on the international trade rules system and demanding greater flexibility from the dispute settlement mechanism. In light of the digital technology revolution, WTO rules and mechanisms struggle to adapt to emerging non-traditional issues such as technical standards and data sovereignty. The failure to establish an efficient digital platform capable of addressing these challenges is a clear example of this difficulty. This issue extends beyond the WTO framework and impacts international law as a whole. For instance, in disputes involving

<sup>12</sup> In [https://sms.mofcom.gov.cn/smzzwjzl/art/2024/art\\_3b6c1dfc074d4830893a3cb7a725d5a3.html](https://sms.mofcom.gov.cn/smzzwjzl/art/2024/art_3b6c1dfc074d4830893a3cb7a725d5a3.html). Last access: April 26, 2025.



environmental protection and labor rights, the Dispute Settlement Body (DSB) often faces the need to balance free trade with environmental or labor concerns, leading to potential conflicts in the application of the rules. (Li,2024) Therefore, the "vacuum" or inadaptation of the rules helps explain the legitimacy crisis surrounding the Appellate Body's "ultra vires" interpretation. The introduction of an evolutionary interpretation was seen as a means to "adapt to the changes in the external environment, safeguard the dynamics of the WTO system, and maintain the validity of WTO agreements" (Damme,2009). This analysis of "necessity" can help alleviate the sense of "inability" stemming from the ongoing "impasse."

Secondly, the primary exogenous factors contributing to the crisis can be summarized as the crisis within the multilateral trading system itself and the instrumentalization of the WTO mechanism within political games. In recent years, there has been a clear shift toward bilateralism and regional trade agreements among WTO members, with initiatives such as the steady progress of the Asia-Pacific Free Trade Area (FTAAP)<sup>13</sup> and the U.S.-led promotion of the United States-Mexico-Canada Agreement (USMCA)<sup>14</sup>. This trend toward a "fragmented" regional economic structure threatens to divide the global economy (Tu et al,2025), which is fundamentally incompatible with the system upon which the WTO was founded. While regional economies and economic globalization can coexist, the current status quo requires the WTO to create a more inclusive and open rule system, particularly in the jurisdiction of its dispute settlement mechanism.

As a product of member states' concessions of sovereignty and a delicate balance of interests, the WTO is inherently fragile when confronted with conflicts over sovereign interests. Observing the attitudes and practices of countries such as China, the European Union, the United States, and developing nations, it is clear that U.S. practices have directly triggered the impasse in the Appellate Body. As previously mentioned, WTO reform—particularly the restoration of the Appellate Body—has been a point of consensus among members. In 2018, several countries co-sponsored proposals, and in 2019, China issued "China's Proposal on WTO Reform."<sup>15</sup> During Trump's first administration, the selection of Appellate Body members was blocked. Now, under "Trump 2.0," the restoration of the Appellate Body in the 13th Ministerial Conference remains elusive. From a macroeconomic policy perspective, the Trump administration's evident trade protectionism and unilateralism—manifested in a series of tariffs from 2018 onward—culminated in the announcement of the "America First Trade Policy"<sup>16</sup> in 2025. This policy, centered around the "America First" orientation, also set the direction for legislative adjustments to China's Permanent Normal Trade Relations (PNTR) treatment. The

<sup>13</sup> In [https://www.apec.org/publications/2024/05/a-new-look-at-the-free-trade-area-of-the-asia-pacific-\(ftaap\)-review-of-apec-s-collective-progress](https://www.apec.org/publications/2024/05/a-new-look-at-the-free-trade-area-of-the-asia-pacific-(ftaap)-review-of-apec-s-collective-progress). Last access: April 26, 2025.

<sup>14</sup> In <https://ustr.gov/trade-agreements/free-trade-agreements/united-states-mexico-canada-agreement>. Last access: April 26, 2025.

<sup>15</sup> In <https://m.mofcom.gov.cn/article/jiguanzx/201905/20190502862614.shtml>. Last access: April 26, 2025.

<sup>16</sup> In <https://www.federalregister.gov/documents/2025/01/30/2025-02032/america-first-trade-policy>. Last access: April 26, 2025.

Presidential Memorandum signed on February 13, 2025, proposed a "reciprocal tariff" policy<sup>17</sup>, clearly intending to reduce the U.S. trade deficit by raising tariffs and strengthening trade barriers.

Beyond U.S. interests, the differing priorities of other stakeholders also impact the negotiation process, requiring WTO reform to address the real demands of various actors. In addition to the consensus on preserving the multilateral framework and restoring the Appellate Body, the European Union seeks to balance multilateral and regional interests while promoting green trade rules, such as the carbon border adjustment mechanism(An,2020). Meanwhile, China and other developing countries resist U.S. proposals and advocate for retaining special and differential treatment. These countries also prioritize safeguarding their development space, increasing their influence in negotiations, and protecting food security and agricultural subsidies. Furthermore, the WTO mechanism faces the risk of politicization, exemplified by the U.S. generalization of "national security" (Article 21 of the General Agreement on Tariffs and Trade 1994<sup>18</sup>), which allows members to take exceptional measures when "national security" is threatened, temporarily exempting them from their WTO obligations. The United States' unilateral imposition of steel and aluminum tariffs (DS548), as well as its use of WTO reform as leverage in the dispute over these tariffs with the European Union, reflect U.S. instrumentalism and egocentrism within the WTO framework. This has significantly impacted the integrity of the rule of law in international trade and economics, not to mention the DSU (Dispute Settlement Understanding) rules.

### 2.2.2 Internal causes

First, the fundamental cause of the impasse in the Appellate Body and the crisis in the WTO dispute settlement mechanism lies in the conflict between the system's inherent flaws and judicialization. Prior to the obstruction of the Appellate Body member selection process, the United States had already expressed dissatisfaction with the dispute settlement mechanism. The 1994 Marrakech Ministerial Conference and the 2001 Doha Conference failed to resolve the disagreements among the parties and failed to form a unified view on reform. The United States advocated for restraining the dispute settlement mechanism, while the European Union and other members emphasized enhancing the judicial independence of the mechanism(Zhang,2020). These fundamentally opposing positions could not be reconciled, leading to the United States' obstruction of member selection as a form of reform based on a tendency toward de-judicialization. This paper will analyze the judicialization characteristics of the WTO dispute settlement mechanism, from its establishment to the tendency toward judicialization in its dynamic operation.

<sup>17</sup> In <https://www.whitehouse.gov/fact-sheets/2025/02/fact-sheet-president-donald-j-trump-announces-fair-and-reciprocal-plan-on-trade/>. Last access: April 26, 2025.

<sup>18</sup> In <https://legal.un.org/avl/ha/gatt/gatt.html>. Last access: April 26, 2025.

The WTO dispute settlement system is similar to domestic judicial systems in sovereign states in that it is designed to provide binding, quasi-legal adjudication of economic and trade disputes globally within a framework of rules. However, unlike national judicial systems supported by national sovereignty, the judicialized international dispute settlement mechanism relies on the cession of sovereignty by member states. Consequently, its system design and authority are merely nominal and lack true substance (Xiao et al,2024). The source of power determines its vulnerability and instability in the face of sovereign interests. “The composition of international legal norms and their institutional logic are always subject to the social reality of anarchy in the international community and the fierce competition among sovereign states.” (Xiao, 2021) This is particularly evident in the challenges faced by developing countries, as the Appellate Body, as a judicialized mechanism, can help overcome political risks. However, while it guarantees enforcement through a "cross-retaliation" clause, the actual effectiveness depends on the economic strength of the parties, as seen in the *Bangladesh v. India anti-dumping case (DS306)*<sup>19</sup>. Additionally, in terms of institutional setup, the WTO dispute settlement mechanism differs from the International Court of Justice (ICJ) in that its judicial nature is primarily reflected in the Appellate Body (Li,2024). The enforcement effect of its decisions is also “quasi-judicial,” which reflects its strong instrumental nature.

The judicial character of the mechanism itself determines its operational mode and development. As a more efficient, compulsory, and fair mechanism, member states are increasingly inclined to resort to the Appellate Body when disputes arise. This has led to a sharp increase in pressure on the Appellate Body, which, on the one hand, exposes the system’s original defects, such as inefficiency in review, inadequate provisions, and poor adaptability to contemporary challenges. On the other hand, it also limits the scope for alternative methods of dispute settlement to survive. Nowadays, the Rule of Law in International Trade is in Dilemma (Zhang,2024). From the perspective of the Appellate Body’s institutional value and development direction, it is difficult to reconcile the contradiction between the body’s instrumental nature and the tendency to dynamic judicialization. In other words, the limits of institutional judicialization are challenging to define due to its instrumental nature and the concern for sovereign interests.

The tendency toward dynamic judicialization implies that the Appellate Body places greater emphasis on the holistic development and long-term viability of the mechanism. This also explains its tendency to overstep its jurisdiction and introduce evolutionary interpretations to enhance the rationality and credibility of its decisions. However, once it oversteps states’ sovereignty, the authority and rationality of its decisions are called into question, which further hinders its development. Moreover, the “irregularities” within the Appellate Body can lead to “spillover effects,” such as the possibility of “judicial law-making” through

<sup>19</sup> In [https://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds306\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds306_e.htm). Last access: April 26, 2025.



systemic interpretation—filling legal loopholes and clarifying ambiguous provisions of the law (Barton et al, 2013).

Secondly, the United States' accusations are not without merit. The lack of institutional design and the ineffectiveness of provisions are direct causes of the crisis, and the inadequacy of prior provisions is closely linked to the overly restrictive nature of the judiciary's ability to act. On a macro level, as previously discussed, the imperfections in WTO rules and the failure to address new areas and trends are central to the crisis. At the level of the rules, the principle of "reverse consensus" applies only to ensure the accuracy of panel and Appellate Body reports, whereas "forward consensus" is the norm. This undermines the independence of the WTO dispute settlement mechanism and provides a justification for the United States to unilaterally block reforms to the mechanism. Furthermore, ambiguous rules, such as the unclear standard for reviewing material interests in the case of third-party access, also contribute to the crisis.

At the implementation level, despite clear time limits, the number of overdue cases has increased with the growing caseload. The prolonged implementation periods can lead to ineffective and untimely remedies. This issue is particularly problematic for developing countries, where weak enforcement is attributable not only to the inherent weaknesses of the system but also to the formalization of clauses like "special considerations".

### 3. WTO DISPUTE SETTLEMENT MECHANISM REFORM PROGRAM

There is no doubt that the World Trade Organization (WTO) will remain the central platform for global trade governance for the foreseeable future. However, the redistribution of global economic power—particularly the rise of emerging economies—poses significant challenges to the existing multilateral trading system, which struggles to adapt to shifts in the global economic landscape. Reforming the WTO dispute settlement mechanism can help rebalance the interests of large and developing countries, ensuring the inclusivity and fairness of the multilateral trading system. At the same time, the increasing digitalization and green transformation of global trade, along with the rise in new types of trade disputes, such as those related to data privacy, e-commerce, and environmental protection, make reform of the existing mechanism urgent to ensure its ability to effectively address these emerging challenges.

In general, the reform should take place within the framework of the multilateral trading system while retaining the judicialization feature of the dispute settlement process. To address the current impasse in the Appellate Body, certain compromises on interests may be necessary. The core of the reform should focus on restoring and reforming the Appellate Body. Reform measures should be centered on this body, taking into

account both short-term and long-term adaptability, with the goal of establishing a robust system that meets practical needs, from the rule base to the dispute settlement mechanism itself.

WTO rules should evolve in response to contemporary challenges, including the development of a digital trade governance platform, attention to economic issues arising in new areas, and fostering greater interaction with the international legal system. Additionally, the reform of the WTO dispute settlement mechanism should aim to remedy its inherent shortcomings and enhance interaction with the outside world. In light of delays in the adjudication process, the introduction of a stricter timetable could expedite case processing, and institutional reforms should be implemented to improve the efficiency of adjudication. Regarding the over-judicialization of the dispute settlement mechanism and its tendency to adjudicate issues beyond its original scope, more stringent rules should be established for the application and interpretation of international legal norms, as well as mechanisms for the clear division of adjudicative competencies.

Given the challenges associated with restoring the Appellate Body and the practical obstacles involved, it is unrealistic to rely on a change in U.S. attitudes. The prospects for successful reform negotiations on the dispute settlement mechanism are uncertain. Therefore, WTO members should explore alternative approaches, such as utilizing appellate arbitration and establishing a new appellate body, to address the practical difficulties through a more diversified dispute settlement mechanism.

#### 4. CONCLUSIONS

The WTO dispute settlement mechanism is a cornerstone of the multilateral trading system and serves as a judicial mechanism that ensures the implementation of agreements and the smooth functioning of the global trading system. In an era marked by the rise of global unilateralism, widespread trade protectionism, and escalating geopolitical conflicts, the reconstruction of the international trade rule system and the restoration of the WTO dispute settlement mechanism's normal operations have become urgent for maintaining international order and coordinating the interests of major countries.

The crisis within the Appellate Body has yet to be effectively resolved, largely due to the United States' preference for de-judicialization. The suspension of the Appellate Body, coupled with the legitimacy crisis, and the shift of member states toward bilateral and regional trade agreements, have exposed significant flaws in the existing mechanism. These developments threaten the WTO's role as the central institution in world trade and significantly weaken its authority. The cascading effects of this crisis have created an urgent demand for a comprehensive reform of the current system.

A successful reform requires an understanding of the complex causes behind the crisis, a thorough analysis of institutional deficiencies, and an awareness of the dynamic interactions with the external

environment. In addition to the system's inability to adapt to new global dynamics, external factors include the spillover effects of the crisis in the multilateral trading system onto the dispute settlement mechanism, and the influence of complex political and economic interests. Internally, the system suffers from design flaws and inefficiencies in the enforcement of rulings. It is important to emphasize that the root cause of the crisis lies in the irreconcilable tension between the inherent fragility of the mechanism—resulting from the transfer of sovereignty and its instrumental nature—and the increasing trend towards judicialization. The excesses of judicialization, manifested in ultra vires rulings, the adoption of evolutionary interpretations, and similar actions, pose a significant threat to member states' sovereignty.

Reform should follow the overarching strategy of "updating rules and improving mechanisms" within the context of positive judicialization and multilateralism. Effective measures at the rule level include actively promoting the establishment of a new platform for digital trade, advancing legislation in emerging areas, and crystallizing the rules of DSU Articles 17 and 24. Regarding the WTO dispute settlement mechanism itself, the reform process should address concerns over legitimacy, efficiency, and the disadvantages faced by developing countries, while reevaluating the boundaries and future direction of judicialization. The WTO dispute settlement mechanism should also proactively incorporate the advantages of regional agreements, such as RCEP<sup>20</sup>, focus on adapting dispute settlement practices within regional trade agreements, and emphasize the design of alternative dispute settlement mechanisms, such as mediation, to foster an effective and interactive system.

In summary, reforming the WTO dispute settlement mechanism is a crucial aspect of the broader reform of the WTO, which must begin with the updating of the WTO's rule system. While it remains a complex and challenging project, overcoming political risks and restoring the Appellate Body is essential to breaking the current deadlock. This will require political acumen to mediate interests and reach compromises. In the midst of a volatile global landscape, WTO members must continue to maintain faith in the multilateral trading system and the global rule of law, actively engaging in economic globalization and adopting a stronger stance against emerging risks.

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