

EVENT REPORT

Why Should the WTO's Dispute Settlement System be Put Back on Track?

Side Event organised by CUTS International at WTO MC13

Room 1, NGO Area, Abu Dhabi National Exhibition Centre (ADNEC), Abu Dhabi

Tuesday, 27 February, 2024

Background

The WTO Dispute Settlement System (DSS) has been in crisis for many years now. The Appellate Body (AB) stalemate continues and limited progress has been made on reforms. At MC12, WTO members were able to adopt a solution-oriented approach to ensure positive outcomes, including a mandate to work towards a "fully and well-functioning dispute settlement system accessible to all WTO members by 2024."

CUTS has been relentlessly advocating for the full restoration of the WTO DSS, with a standing, well-functioning AB. Only this can ensure the WTO's continued relevance as a guarantor of predictable and rules-based trade.

The 13th WTO Ministerial Conference (MC13) in Abu Dhabi, UAE will determine the future of the WTO DSS. What is the likelihood of members being able to deliver a clear outcome on dispute settlement reform at MC13? What does the future hold for the appellate stage of the two-tiered DSS, long hailed as the WTO's crown jewel?

Given this background, CUTS International organised an MC13 Side Event on "*Why Should the WTO's Dispute Settlement System be Put Back on Track?*". The event brought together a group of global experts to present their thoughts and vision for the future of the two-tiered WTO Dispute Settlement Mechanism (DSM).

Panellists:

1. **Pradeep S Mehta**, Secretary General, CUTS International [Moderator]
2. **Sumanta Chaudhuri**, Principal Adviser, International Trade Policy, Confederation of Indian Industry (CII)
3. **Christophe Bellman**, Head of Policy Analysis and Strategy, Forum on Trade, Environment & the SDGs (TESS)
4. **Axel Berger**, Deputy Director, German Institute of Development and Sustainability (IDOS)
5. **Simon Ng'ona**, Director, Foreign Trade, Ministry of Commerce, Trade and Industry (MCTI), Government of Zambia
6. **Sangeeta Khorana**, Professor of International Trade Policy, Aston University, Birmingham

Overall, the panellists agreed on the need to preserve an accessible and well-functioning DSM to maintain certainty, predictability and stability in the administration and enforcement of trade rules. However, they cautioned that it would not be easy to restore the two-tiered WTO DSM, given the systemic fractures in the past few years.

Key takeaways:

- The Appellate Body (AB) crisis is a reflection of a more fundamental problem of countries indicating that they will not be constrained by enforcement of WTO disciplines. It is only one of the manifestations of a larger trend, and the apprehension is that it will affect the entire WTO ecosystem if not resolved.
- Any proposed dispute settlement reforms must be solution-oriented (addressing the existing differences) and should not add more layers to an already complex issue. Reforms must equip the DSM to tackle emergent tensions arising from proliferation of unilateral measures.
- Reforming the AB must remain central to DSM reform. Alternatives to the two-tiered system and strategies for its realistic reform need to be undertaken in parallel.
- While a well-functioning DSM is ideal for a robust multilateral trading system, there remains immense value in the deliberative function of the WTO even without a two-tiered DSM. The WTO's functions and its role in global trade must not be seen as a zero-sum game.