Three-Decade Assessment of the World Trade Organization Dispute Settlement Mechanism and the Design of Strategic Pathways for Iran's Full Accession

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Abstract

The dispute settlement mechanism within the framework of the World Trade Organization constitutes the central binding adjudicatory system of the multilateral trading regime, established with the objective of ensuring security and predictability in trade relations among States. After three decades of operation, a fundamental question arises as to the extent to which this mechanism has succeeded in fulfilling its stated objectives, and the implications of the paralysis of the Appellate Body for its legitimacy and effectiveness. This article assesses the thirty-year performance of the WTO dispute settlement mechanism by examining its structural evolution, interpretative practices, and institutional challenges, with particular attention to the deadlock in the appointment of Appellate Body members and the role of the Secretariat in dispute adjudication. The study adopts a descriptive–analytical methodology based on library research, including constitutive agreements, panel and Appellate Body reports, official documents, and specialized literature in international trade law. The findings indicate that while the dispute settlement mechanism has played a significant role in the institutionalization of legal discipline in inter-State trade relations, asymmetries in enforcement capacity and disruptions in the appellate function have generated structural limitations. Accordingly, in light of the macro-level policies of the Islamic Republic of Iran, the effective and sovereignty-conscious utilization of this mechanism requires precise calibration of obligations, targeted legislative reform, and the formulation of a strategic framework aligned with national interests.

Keywords: Institutional Crisis; Economic Sanctions; Dispute Settlement Mechanism; World Trade Organization; TRIPS Agreement.

Received: 12 March 2026
Revised: 01 August 2026
Accepted: 08 August 2026
Initial Publication 09 August 2026
Final Publication 01 November 2026

Citation: Sheykhyani, M. H., & Momenirad, A. (2026). Three-Decade Assessment of the World Trade Organization Dispute Settlement Mechanism and the Design of Strategic Pathways for Iran's Full Accession. *Legal Studies in Digital Age,* 5(6), 1-10.

1. Introduction

The establishment of the World Trade Organization (WTO) in 1995 marked a watershed in the evolution of international economic law, signifying a transition from a system grounded in diplomatic bargaining to a rule-based and legally oriented order. Within this framework, the Dispute Settlement Body (DSB) was designed as a mechanism for ensuring compliance with Members' obligations and safeguarding the security and predictability of the multilateral trading system. The introduction of compulsory quasi-judicial proceedings, the acceptance of mandatory jurisdiction, and the operation of the "negative consensus" rule in the adoption of reports collectively transformed this body into one of the most advanced dispute settlement mechanisms in contemporary international law. Over its three decades of operation, the system has adjudicated hundreds of disputes among Members, reflecting its significant role in managing trade conflicts and reinforcing the rule of law in international economic relations.

Notwithstanding these achievements, a thirty-year assessment of the WTO dispute settlement system reveals that the shift from the diplomatic pragmatism of the GATT era to a binding legal mechanism has generated complex institutional consequences. The replacement of "positive consensus" with "negative consensus" enabled the initiation of proceedings against economically powerful Members and strengthened formal equality in access to adjudication. However, the progressive legalization of the system has, over time, heightened political sensitivities among certain Members, giving rise to disputes concerning the scope of interpretative authority and the jurisdiction of the Appellate Body. In recent years, these tensions have culminated in a deadlock over the appointment of Appellate Body members, resulting in functional paralysis at the appellate stage.

In the present circumstances, the suspension of the Appellate Body raises fundamental questions regarding the effectiveness, legitimacy, and institutional capacity of the WTO dispute settlement system. In parallel, the role of the WTO Secretariat in providing legal support to panels and contributing to the drafting of reports has intensified scholarly debate regarding the boundary between administrative assistance and quasi-judicial independence. Accordingly, the core issue is not merely a descriptive account of the institution's historical performance, but rather a structural analysis of its contemporary challenges and its capacity to respond to an ongoing legitimacy crisis.

For acceding states, including the Islamic Republic of Iran, these developments carry particular significance. Accession should not be understood merely as entry into global markets; rather, it entails acceptance of a comprehensive set of binding obligations within a multilateral legal order capable of shaping domestic legislative processes, regulatory frameworks, and economic policymaking. At the same time, informed engagement with the dispute settlement system may provide an effective legal instrument for safeguarding national interests and responding to trade-restrictive measures and unilateral extraterritorial actions. From this perspective, a precise assessment of the functioning of the DSB is indispensable for the formulation of accession-related legal strategies.

This article adopts a descriptive–analytical methodology, drawing on WTO constitutive instruments, panel and Appellate Body jurisprudence, official reports, and the broader literature on international trade law. Its analytical framework is grounded in the interaction between the legalization of the multilateral trading system and considerations of power in international political economy. The study first traces the institutional evolution and achievements of the DSB, then examines the dimensions of its current legitimacy crisis and structural challenges, and finally analyses the implications of these developments for acceding states' legal and policy orientation.

The central hypothesis of the article is that the weakening of the appellate stage does not primarily reflect an inherent dysfunction of the dispute settlement system itself, but rather a structural tension between the deepening legalization of the multilateral trading regime and the sovereignty and power considerations of key Members within the international political economy. Unless this tension is recalibrated through a rebalancing of legal commitments and political realities, the long-term effectiveness and stability of the system will remain under strain.

2. Structural Evolution and Legal Foundations of the Dispute Settlement Body

The dispute settlement system of the World Trade Organization, often described in the legal literature as the "crown jewel" of the organization, constitutes the only comprehensive, compulsory, and binding adjudicatory regime in international relations (Johannesson & Mavroidis, 2016). As Louise Johannesson and Petros Mavroidis emphasize, this mechanism enables Members to resolve all disputes arising from the implementation of WTO agreements exclusively through the procedures established under the Dispute Settlement Body (Johannesson & Mavroidis, 2016). This jurisdictional exclusivity, enshrined in Article 23.2 of the DSU, precludes states from resorting to unilateral determinations or countermeasures in response to trade disputes. In this sense, the WTO dispute settlement system exhibits a level of compulsory jurisdiction that, in practice, exceeds that of general international adjudicatory mechanisms, including those reflected in Article 36(1) of the Statute of the International Court of Justice.

A thirty-year assessment of the system demonstrates that the transition from the GATT framework to the World Trade Organization in 1995 constituted a fundamental transformation in the legal philosophy of the multilateral trading regime. Under the GATT system, diplomatic pragmatism prevailed, and the rule of "positive consensus" allowed any Member to block the establishment of panels or the adoption of reports. By contrast, the WTO—pursuant to Article II of the Agreement Establishing the WTO—introduced a unified institutional framework for Members' trade relations and replaced positive consensus with the "negative consensus" rule, effectively removing the veto power of major actors (Johannesson & Mavroidis, 2016). In accordance with Articles 3.3 and 3.4 of the DSU, the system was designed to administer the rules and procedures governing dispute settlement in order to restore security and predictability to global trade relations. This shift from diplomacy-centred governance to law-centred adjudication undoubtedly enhanced legal certainty in trade relations; however, it simultaneously laid the groundwork for contemporary legitimacy tensions, as it recalibrated the balance between state sovereignty and international legal obligation in favour of judicialized processes (Momeni Rad, 2005).

In this context, Bernard Hoekman and Petros Mavroidis, in their analysis of the WTO crisis, argue that the deadlock in the appointment of Appellate Body members has, since 2019, effectively impaired the final stage of the dispute settlement mechanism (Hoekman & Mavroidis, 2019). The United States has justified its position by alleging that the Appellate Body has engaged in "judicial lawmaking" and exceeded its interpretative mandate. While Hoekman's emphasis on the need for structural reform is well founded, a mere return to the original design of 1995—without accounting for the profound shifts in the global economic balance of power, particularly the rise of China and other emerging economies—cannot offer a sustainable solution to the current impasse. The persistence of this institutional deadlock has encouraged Members to rely increasingly on interim arrangements, thereby undermining the credibility and authority of the multilateral trading system as a whole (Hoekman & Mavroidis, 2019).

Beyond political constraints, the functioning of the dispute settlement system also warrants examination from an administrative perspective. Joost Pauwelyn and Krzysztof Pelc, in their empirical studies, reveal the significant and often opaque influence of the WTO Secretariat on dispute settlement processes (Pauwelyn & Pelc, 2022). They argue that the system has gradually evolved from an independent international adjudicatory mechanism into a form of "administrative review," in which permanent Secretariat officials play a decisive role not only in the selection of adjudicators but also in the drafting of final reports (Pauwelyn & Pelc, 2022). From an analytical standpoint, this structural dependency of ad hoc panellists on the Secretariat's professional bureaucracy, while contributing to consistency and continuity in jurisprudence, simultaneously raises serious concerns regarding institutional independence and results in the predominance of technocratic logic over judicial character (Pauwelyn & Pelc, 2022). For a country such as Iran, which is in the process of accession, this reality is particularly significant: success in WTO litigation appears to depend less on formal legal entitlement alone and more on a sophisticated understanding of the Secretariat's procedural and technocratic architecture.

3. Legitimacy Crisis and Political Deadlock in the Appellate Body

One of the most consequential challenges that has significantly disrupted the three-decade performance of the WTO dispute settlement system is the de facto suspension of the final stage of adjudication—namely, appellate review—following the sustained opposition of the United States to the appointment of new members. This situation, which began to intensify in 2017 with growing objections from Washington, reached its peak in December 2019, when the Appellate Body was reduced from seven members to zero, thereby bringing the issuance of final and binding rulings to a halt (Graham, 2020). This development further reflects a profound disagreement regarding the scope of interpretative authority and the institutional position of the Appellate Body within the multilateral trading system (Hoekman & Mavroidis, 2019).

In this context, the United States, relying on the concept of "judicial lawmaking," argues that the Dispute Settlement Body, by departing from the limits set out in Article 3.2 of the DSU, has moved beyond interpretation of the covered agreements and, in effect, has engaged in the creation of new obligations for Members (Hoekman & Mavroidis, 2019). Bernard Hoekman and Petros Mavroidis explain that Washington's dissatisfaction is particularly directed at the jurisprudence concerning "zeroing" in anti-dumping calculations, as the relevant rulings have constrained the United States' ability to employ trade-defence instruments (Hoekman & Mavroidis, 2019).

From an analytical perspective, the US claim of "ultra vires adjudication" may be examined through a textualist lens. Article 3.2 of the DSU indeed provides that recommendations and rulings cannot add to or diminish the rights and obligations set out in the covered agreements. However, any comprehensive understanding of this crisis requires engagement with the theory of "incomplete contracts." Horn, Maggi, and Staiger have demonstrated that international agreements, by their very nature, cannot anticipate all future contingencies and that the role of adjudicatory bodies is to fill normative gaps within such incomplete contractual frameworks (Horn et al., 2010). Accordingly, the suspension of the Appellate Body under the pretext of procedural reform has, in practice, cast doubt on the effective realization of Articles 3.3 and 3.4 of the WTO Agreement, namely the objectives of ensuring security and predictability in the multilateral trading system (Momeni Rad, 2016).

Furthermore, the United States has also objected to the failure to comply with the 90-day deadline for the issuance of reports under Article 17.5 of the DSU. Louise Johannesson demonstrates that, in recent years, the average duration of proceedings has increased to over 150 days (Johannesson & Mavroidis, 2016). In a similar vein, Thomas Graham argues that the internal culture of the Appellate Body has gradually evolved towards the model of a quasi-supreme judicial authority, in which the influence of the Secretariat's professional staff has led members, in certain instances, to function largely as endorsers of drafts prepared by permanent legal officers (Graham, 2020).

In continuation of this analysis, the study by Pauwelyn and Pelc, relying on textual analysis of adjudicatory reports, demonstrates that the contribution of WTO Secretariat lawyers to the formulation of final legal reasoning is substantial (Pauwelyn & Pelc, 2022). While this phenomenon can be justified from a functional and expertise-based perspective, it has nevertheless facilitated the emergence of a strong technocratic concentration within adjudicatory reasoning. At the same time, the United States' objection to Article 15 of the Working Procedures—which allows members whose terms have expired to complete pending cases—raises important questions from the standpoint of judicial efficiency. A sudden interruption of proceedings may generate additional procedural and economic costs, particularly for developing countries.

By contrast, James Bacchus argues that the WTO adjudicatory system should make fuller and more expansive use of general principles of public international law in interpreting its covered agreements (Bacchus, 2015). However, from the perspective of institutional legitimacy, an overly expansive interpretative approach may intensify political sensitivities among Members. As Matsushita rightly observes, the World Trade Organization is a member-driven institution, and at its inception, there was no intention to establish a fully autonomous supranational judiciary (Matsushita, 2015). Consequently, maximalist approaches to interpretative authority have, paradoxically, contributed to the reinforcement of confrontational positions among Members.

Ultimately, pursuant to Article 3.8 of the DSU, a breach of obligations is presumed to constitute a case of nullification or impairment. In the current institutional context, the submission of appeals to a non-functioning Appellate Body prevents the finalization of rulings and the implementation of countermeasures (Hoekman & Mavroidis, 2019). This situation underscores that, for the Islamic Republic of Iran in the accession process, reliance solely on the textual provisions of the WTO agreements is insufficient. Rather, a precise understanding of Article II of the Marrakesh Agreement Establishing the WTO is necessary in order to develop the legal and institutional capacity required for the effective protection of national interests within the evolving political dynamics of the multilateral trading system.

4. The Hidden Role of Technocracy: Analysing the Position of the WTO Secretariat

While public and political attention is primarily focused on the appointed members of the Dispute Settlement Body, the role of the WTO Secretariat in trade adjudication is both pivotal and decisive, yet largely "invisible." Pursuant to Article 27.1 of the DSU, the Secretariat is mandated to assist panels, "particularly on the legal, historical and procedural aspects of the matters under consideration," and to provide the necessary technical and administrative support (Saedi Bonab, 2014). However, the analysis of Joost Pauwelyn and Krzysztof Pelc suggests that this function of "assistance and support" has gradually evolved into a form of systemic guidance (Pauwelyn & Pelc, 2022). From their perspective, although the Secretariat's involvement is indispensable for ensuring institutional continuity and preserving the organization's "institutional memory," the increasing dominance of technocratic reasoning over adjudicatory decision-making has raised serious concerns regarding the legitimacy of the dispute settlement process.

4.1. Secretariat Influence in Steering Disputes and Drafting Final Reports

The WTO Secretariat, particularly through its Legal Affairs Division and Rules Division, plays a critical role at various stages of dispute settlement. Even before panel members convene for their initial deliberations, Secretariat officials prepare an "Issues Paper" summarizing the factual background, the parties' legal arguments, and, most significantly, the plausible legal interpretations and relevant jurisprudence (Pauwelyn & Pelc, 2022). In his critical reflections, Thomas Graham observes that the internal institutional culture of the WTO has evolved to the point where appointed panellists often function, in practice, as approvers of drafts prepared by permanent Secretariat lawyers (Graham, 2020).

The analytical critique offered in this article regarding Graham's position is that, although he correctly problematizes the "dominance of bureaucracy," he does not provide a viable solution to the structural expertise deficit among ad hoc adjudicators. In fact, the Secretariat's influence is largely a structural consequence of weaknesses in the selection of panellists, some of whom may lack sufficient technical expertise in the complex field of trade law. As Joseph Weiler aptly notes, WTO reports are drafted in a style that reflects a form of "unintended candour," as the text states that "the Dispute Settlement Body considered…," while the actual author is often a legal officer within the Secretariat.

4.2. Expertise Gap Between Panels and the Permanent Staff of the Secretariat

One of the principal drivers of the transfer of functional authority from ad hoc panels operating within the WTO Dispute Settlement Body to the Secretariat lies in the widening gap in expertise and institutional continuity. Whereas panels are established on an ad hoc basis for individual disputes—typically composed of diplomats or academics—the Secretariat consists of a permanent cadre of legal and economic experts who have been embedded in the system for decades (Johannesson & Mavroidis, 2016). Johannesson and Mavroidis emphasize that this informational asymmetry, in practice, compels adjudicatory panels to defer to the analytical frameworks and interpretative templates developed by the administrative staff (Johannesson & Mavroidis, 2016).

Within this context, the situation carries strategic implications for a state such as the Islamic Republic of Iran, currently in the process of accession. Accession to the World Trade Organization cannot be reduced to a political arrangement; rather, it entails entry into a highly structured and complex bureaucratic–legal order. Pursuant to Article 2(1) of the Marrakesh Agreement Establishing the WTO, the Organization provides a unified institutional framework in which the Secretariat's influence over the interpretation of rules and the shaping of procedural practice cannot be disregarded. Accordingly, upon accession, the strengthening of specialized expertise in international trade law and a deep familiarity with the operational practices and professional culture of the Secretariat become institutional necessities rather than mere policy options.

4.3. Administrative Review versus Independent Judicial Adjudication

The nature of dispute settlement within the World Trade Organization, contrary to conventional perceptions, increasingly resembles an "administrative review" process rather than a classical model of international adjudication (Pauwelyn & Pelc, 2022). Pursuant to Article 8(6) of the Dispute Settlement Understanding (DSU), the Secretariat proposes the names of panellists to the disputing parties, and where consensus is not reached, the Director-General appoints panel members under Article 8(7), in consultation with the Secretariat. This institutional design effectively means that the "guardians of the system"—namely, the Secretariat—play a decisive role in shaping the composition of adjudicating panels (Fatemi Nezhad, 2018).

From an analytical perspective, this structural arrangement has fostered a form of institutional self-restraint, or subtle self-censorship, among panellists. Since remuneration and prospects for future appointment are, in practice, linked to the administrative ecosystem governed by the Secretariat, incentives to deviate from established interpretative approaches are weakened (Pauwelyn & Pelc, 2022). As Bernard Hoekman argues, enhancing the legitimacy and effectiveness of the system requires transforming the Secretariat from a "hidden actor" into a transparent provider of technical and advisory services, thereby preserving an appropriate balance between member-driven governance and technocratic expertise (Hoekman & Mavroidis, 2019).

Ultimately, under Articles 3(3) and 3(4) of the WTO Agreement, the Dispute Settlement Body is mandated to administer rules and procedures governing dispute settlement with the aim of ensuring security and predictability in the multilateral trading system. However, the growing technocratic density of the process has, in practice, led to a situation in which principles of public international law are often obscured behind layers of procedural and technical complexity. In this context, successful participation in WTO dispute settlement requires not only mastery of treaty texts but also a sophisticated understanding of the "Geneva-based technocratic governance" that operates as the de facto custodian of the incomplete architecture of global trade law.

5. Institutional and Statistical Assessment of the Dispute Settlement Body (1995–2025)

An examination of three decades of activity within the Dispute Settlement Body (DSB) indicates that this mechanism, with more than 500 consultation requests recorded up to 2016, has functioned as one of the most frequently used inter-State adjudicatory forums in contemporary international relations (Johannesson & Mavroidis, 2016). Johannesson and Mavroidis show through their statistical analysis that this substantial caseload during the first two decades reflects a baseline level of confidence among Members in the institutional utility of the system (Johannesson & Mavroidis, 2016). Nevertheless, participation in the system has been markedly asymmetrical, as developed Members such as the United States and the European Union accounted for more than 60 per cent of all complaints in the early period (Bown, 2005).

5.1. Participation Analysis and the Challenge of "Institutional Disparity"

Empirical research by Chad Bown indicates that the decision to initiate WTO dispute settlement proceedings is closely linked to the economic value of the trade interests at stake and the retaliatory capacity of Members (Bown, 2005). He further argues that many smaller economies are reluctant to initiate disputes because of concerns about political retaliation and high litigation costs and instead tend to benefit indirectly from disputes initiated by others—a phenomenon commonly referred to as "free-riding" (Bown, 2005).

While Bown's account of free-riding is economically persuasive, it remains analytically limited in capturing the structural dimensions of participation. The strategic reluctance of developing countries cannot be reduced solely to rational resource optimization; it also reflects deeper asymmetries embedded in the institutional design of the Dispute Settlement Body. In practice, Members with limited retaliatory capacity may obtain a formal legal victory without being able to ensure effective compliance by the responding party. For the Islamic Republic of Iran in the context of accession, this suggests that litigation success under the DSB, in the absence of sufficient economic leverage and coordinated diplomatic coalitions, may not necessarily translate into effective enforcement outcomes (Ghaem Maghami Farahani, 2023).

5.2. Structural Constraints in the Implementation of Countermeasures

One of the functional paradoxes of the system lies in its "self-enforcing" design, whereby Article 22(4) of the Dispute Settlement Understanding (DSU) authorizes trade retaliation as a means of securing compliance. However, for smaller economies, this authorization remains largely theoretical, as retaliation against major trading partners typically results in domestic price increases and significant welfare losses, given their limited influence over global price formation (Piri & Sohrabi, 2020). In this context, Kyle Bagwell has proposed the "auctioning of retaliatory rights" as a mechanism enabling weaker Members to transfer their entitlement to impose countermeasures to more powerful states.

From an analytical perspective, although Bagwell's proposal is coherent within a market-efficiency framework, it is difficult to reconcile with the foundational principles of state responsibility and the compensatory logic underlying WTO remedies. Within the WTO system, countermeasures are secondary and remedial in nature, activated only after a breach has been established and operating strictly within a bilateral legal relationship between the injured and the violating Member. The transferability of such rights to third parties would contradict the principle of the personal nature of international responsibility and would undermine the reciprocity structure embedded in Article 22 of the DSU. Such a shift would risk transforming a compliance-oriented mechanism into an instrument of strategic bargaining dominated by economically powerful actors.

Moreover, the possibility of transferring retaliatory rights may further concentrate trade enforcement capacity in the hands of powerful Members, thereby weakening the institutional balance envisaged under the Dispute Settlement Mechanism. Accordingly, for the Islamic Republic of Iran, a more viable approach lies not in the commercialization or transfer of retaliatory rights, but in strengthening domestic legal capacity, ensuring effective utilization of existing WTO mechanisms, and developing coordinated strategies and coalitions with other developing Members in line with WTO-consistent collective-action frameworks.

5.3. The Advisory Centre on WTO Law

In response to persistent asymmetries in legal expertise, the Advisory Centre on WTO Law (ACWL) was established in 2001 to reduce the technical gap between Members (Meagher, 2015). Niall Meagher argues that the Centre has played an important role in enhancing procedural fairness by providing subsidized legal services to developing countries (Meagher, 2015). Bown likewise notes that, with the support of the Centre, even smaller economies have been able to pursue disputes involving relatively limited trade volumes (Bown, 2005).

From an analytical perspective, Meagher's assessment of the Advisory Centre on WTO Law is largely well founded, as the Centre has functioned as a stabilizing mechanism that helps prevent further erosion of institutional legitimacy. However, the present analysis suggests that the Centre's structural dependence on financial contributions from developed Members—its principal donors—may generate implicit constraints on its advisory autonomy. In the context of the Islamic Republic of Iran's accession process, reliance on the Centre's expertise should therefore be accompanied by safeguards ensuring the professional independence of its experts from donor-state influence.

5.4. Ongoing Deadlock and the Crisis of Appellate Appointments

In recent years, the Dispute Settlement Body has faced an unprecedented institutional crisis arising from the sustained opposition of the United States to the appointment of new members to the Appellate Body. As a result, the Appellate Body has been reduced from seven members to a non-functional state, thereby effectively paralyzing the final stage of dispute settlement (Graham, 2020). The United States justifies this position by arguing that the Appellate Body has engaged in "judicial lawmaking," thereby affecting the balance of rights and obligations among Members.

While concerns regarding delays in proceedings—particularly those exceeding the 90-day deadline under Article 17(5) of the DSU—raise legitimate procedural questions, the complete disabling of the appellate function represents a disproportionate institutional response. This development has undermined the security and predictability of the multilateral trading system, as explicitly emphasized in Articles 3(3) and 3(4) of the WTO Agreement (Shiravi & Nazarnejad, 2016). For Iran, acceding to a system whose appellate mechanism remains in deadlock requires careful strategic consideration in the drafting of its Accession Protocol, particularly to ensure that obligations are not undermined in the absence of effective appellate review.

Overall, three decades of empirical evidence indicate that, despite significant achievements in clarifying and developing trade rules, the Dispute Settlement Body has not fully overcome structural inequalities arising from disparities in economic and bargaining power. In practical terms, the system resembles a highly precise mechanism operating under conditions of unequal force: while legal rules are formally uniform, their practical outcomes are often shaped by underlying power asymmetries favouring the most influential Members.

6. Principles of Law and Unwritten Standards Governing the Jurisprudence of the Dispute Settlement Body: The Intersection of Text and Practice

In assessing the three-decade performance of the Dispute Settlement Body, understanding the foundational principles that operate beyond the explicit text of the covered agreements is essential for shaping a coherent accession strategy. These principles, derived from WTO jurisprudence, influence the interpretative approach of adjudicators and Secretariat lawyers and play a significant role in delineating the boundary between national sovereignty and international obligations.

6.1. The Principle of Preserving the Balance of Rights and Obligations and the Paradox of Textualism

Pursuant to Article 3(2) of the Dispute Settlement Understanding (DSU), the Dispute Settlement Body is required to preserve the rights and obligations set out in the covered agreements. Petros C. Mavroidis argues that this provision effectively confines adjudicators to a strongly textualist interpretative approach, limiting their ability to move beyond the literal meaning of treaty provisions (Mavroidis, 2016).

While this argument is compelling from the perspective of legal certainty, an overly rigid commitment to textualism in an evolving trade environment—particularly in areas such as digital trade—may contribute to normative stagnation. As Bernard Hoekman observes, the World Trade Organization is currently facing a condition of "stalled normative development" (Hoekman & Mavroidis, 2019). Accordingly, if the Dispute Settlement Body is unable to address gaps arising from outdated treaty language through appropriate interpretative methods, questions may arise regarding the long-term effectiveness of the system. From this perspective, in the context of accession, the legal significance of the Accession Protocol may, in practice, become even more pronounced than that of the general WTO agreements, given the broader limitations in multilateral rule development.

6.2. The Principle of Proportionality in Countermeasures: From Justice to Economic Coercion

The principle of proportionality remains one of the most complex issues in the authorization of trade retaliation under Article 22(4) of the DSU. Andrew D. Mitchell argues that trade retaliation within the WTO framework should not be punitive in nature, but must instead correspond strictly to the level of "nullification or impairment" suffered (Mitchell, 2006).

While Mitchell's position is doctrinally consistent with the spirit of Article 3(7) of the DSU, in practice, it may operate as a "legal illusion" for developing countries. In reality, proportionate retaliation against major economic powers is often difficult to implement effectively, since structural asymmetries in economic power mean that such measures can generate disproportionate domestic costs for the complaining state itself. This experience suggests that, in the accession process, reliance on the formal right of retaliation is insufficient; instead, securing enforceable safeguards within the Accession Protocol becomes essential (Momeni Rad & Ghasemzadeh Mosalabeh, 2015).

6.3. The Standard of "Objective Assessment" and the Penetration of Technocracy

Article 11 of the DSU requires panels to make an "objective assessment" of the facts of the case and their conformity with the relevant covered agreements. However, Joost Pauwelyn and Krzysztof Pelc demonstrate that this notion of objectivity is, in practice, often shaped by the interpretative preferences of permanent Secretariat lawyers (Pauwelyn & Pelc, 2022).

The analysis presented in this article supports the view that the growing dominance of technocratic reasoning over judicial objectivity has contributed to the emergence of a "closed interpretative circle," which limits the incorporation of economic reasoning and the policy considerations of developing countries (Hossein Nakhaei & Javid, 2024). Within this framework, one of the key strategic shortcomings is the neglect of the "actual intent of negotiators" in favour of an overly formalistic understanding of textual objectivity. Accordingly, capacity-building for legal teams to understand the interpretative culture of the Secretariat is as important as mastery of treaty texts, given that a significant portion of adjudicative reasoning is effectively shaped within administrative processes (Rezaei & Sarbazian, 2019).

7. Conclusion

Analysis of three decades of the Dispute Settlement Body's (DSB) operation reveals that, while this mechanism has played a pivotal role in the juridification of inter-State trade relations and the institutionalization of quasi-judicial adjudication, it has encountered significant structural impediments in recent years. The findings of this research suggest that the inherent tension between the progressive judicialization of the system and the member-driven nature of the World Trade Organization has gradually precipitated an institutional imbalance at the appellate level, thereby undermining the overall effectiveness of the regime. The persistent paralysis in the appointment of Appellate Body members serves as a clear reflection of a fundamental divergence regarding the scope of interpretative authority and its delicate relationship with state sovereignty. Consequently, the efficacy of the DSB cannot be evaluated solely through the prism of treaty texts; rather, it is shaped by the complex interplay between institutional realities and power considerations within the global political economy.

Furthermore, developments over the last thirty years indicate that efforts to bolster the judicial function of the DSB—while enhancing interpretative coherence—have simultaneously collided with the sovereign sensitivities of major Members. Empirical evidence underscores that the practical benefits derived from this adjudicatory system are intrinsically linked to a Member's economic stature and retaliatory leverage. The prohibitive costs of litigation, the forward-looking nature of WTO remedies, and the stark asymmetries in enforcement instruments have resulted in an uneven distribution of legal victories across the membership. This systemic asymmetry in the functional operation of the DSB remains a critical factor that must be integrated into any comprehensive assessment of its performance.

In light of these findings, the accession of the Islamic Republic of Iran to the WTO necessitates a high degree of legal and institutional preparedness commensurate with the intricacies of the dispute settlement system. This requires not only the cultivation of specialized human capital in international trade law but also a profound familiarity with the interpretative culture and procedural nuances of the Secretariat. From a strategic standpoint, it is imperative to utilize the "reasonable period of time" for implementation to ensure harmonious alignment between international obligations and domestic legislative processes. Most crucially, the calibration of commitments must be strictly conducted within the framework of Articles 77 and 153 of the Constitution of the Islamic Republic of Iran to preclude any conflict with sovereign imperatives or fundamental national interests. Any acceptance of obligations necessitating extensive legislative reform must be preceded by a rigorous assessment of the domestic legal system's institutional capacity.

Ultimately, the effective utilization of the WTO's adjudicatory mechanism hinges upon a sophisticated synthesis of technical legal expertise, institutional readiness, and the precise formulation of obligations that safeguard national interests. Only through such a comprehensive and sovereignty-conscious framework can Iran optimize the benefits of the multilateral trading system while mitigating the risks associated with institutional power asymmetries.

Ethical Considerations

All procedures performed in this study were under the ethical standards.

Acknowledgments

Authors thank all who helped us through this study.

Conflict of Interest

The authors report no conflict of interest.

Funding/Financial Support

According to the authors, this article has no financial support.

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