

FACULTY OF JURIDICAL SCIENCES

Lecture-17



Dispute settlement

dispute settlement is the process of resolving disputes between parties. The term dispute resolution is sometimes used interchangeably with conflict resolution, although conflicts are generally more deep-rooted and lengthy than disputes. Dispute resolution techniques assist the resolution of antagonisms between parties that can include citizens, corporations, and governments.

The current dispute settlement system was created as part of the WTO Agreement during the Uruguay Round. It is embodied in the Understanding on Rules and Procedures Governing the Settlement of Disputes, commonly referred to as the Dispute Settlement Understanding and abbreviated “DSU” (referred to as such in this guide). The DSU, which constitutes Annex 2 of the WTO Agreement, sets out the procedures and rules that define today’s dispute settlement system. It should however be noted that, to a large degree, the current dispute settlement system is the result of the evolution of rules, procedures and practices developed over almost half a century under the GATT 1947.

Explanatory note: The annexes of the WTO Agreement contain all the specific multilateral agreements. In other words, the WTO Agreement incorporates all agreements that have been concluded in the Uruguay Round. References in this guide to the “WTO Agreement” in general, therefore, include the totality of these rules. However, the WTO Agreement itself, if taken in isolation from its annexes, is a short Agreement containing 16 Articles that set out the institutional framework of the (WTO) as an international organization. Specific references to the WTO Agreement (e.g. “Article XVI of the WTO Agreement”) relate to these rules.

Importance of the WTO dispute settlement system

The best international agreement is not worth very much if its obligations cannot be enforced when one of the signatories fails to comply with such obligations. An effective mechanism to settle disputes thus increases the practical value of the commitments the signatories undertake in an international agreement. The fact that the Members of the (WTO) established the current dispute settlement system during the Uruguay Round of Multilateral Trade Negotiations

underscores the high importance they attach to compliance by all Members with their obligations under the WTO Agreement.

Settling disputes in a timely and structured manner is important. It helps to prevent the detrimental effects of unresolved international trade conflicts and to mitigate the imbalances between stronger and weaker players by having their disputes settled on the basis of rules rather than having power determine the outcome. Most people consider the WTO dispute settlement system to be one of the major results of the Uruguay Round. After the entry into force of the WTO Agreement in 1995, the dispute settlement system soon gained practical importance as Members frequently resorted to using this system.