

The role of WTO dispute settlement mechanism in trade conflicts: A focus on China's experience

O papel do mecanismo de solução de controvérsias da OMC em conflitos comerciais: Um foco na experiência da China

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ABSTRACT

The World Trade Organization (WTO) Dispute Settlement Mechanism (DSM) serves as a cornerstone for resolving international trade conflicts, with China emerging as a pivotal participant since its accession in 2001. This paper examines China's evolving role in the DSM through key cases, challenges, and policy implications. It highlights China's strategic use of the DSM to counter protectionist measures, its compliance struggles in sensitive sectors like intellectual property, and its advocacy for systemic reforms to reflect shifting global power dynamics. By analyzing China's interactions with major economies such as the U.S. and the EU, the study underscores the balancing act between sovereignty and multilateral obligations. The paper concludes with recommendations for China to enhance compliance, promote DSM reforms, and shape future trade governance frameworks.

Keywords: WTO Dispute Settlement Mechanism, China's Trade Policy, Multilateral Trade Governance, Compliance Challenges, Trade Dispute Resolution

RESUMO

O Mecanismo de Solução de Controvérsias (MSC) da Organização Mundial do Comércio (OMC) serve como pedra angular para a resolução de conflitos comerciais internacionais, com a China emergindo como um participante fundamental desde sua adesão em 2001. Este artigo examina a evolução do papel da China no MSC por meio de casos-chave, desafios e implicações políticas. Destaca o uso estratégico do MSC pela China para combater medidas protecionistas, suas dificuldades de conformidade em setores sensíveis como propriedade intelectual e sua defesa de reformas sistêmicas que reflitam as mudanças na dinâmica de poder global. Ao analisar as interações da China com grandes economias, como os EUA e a UE, o estudo destaca o equilíbrio entre soberania e obrigações multilaterais. O artigo conclui com recomendações para que a China aprimore a

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conformidade, promova reformas no MSC e molde futuras estruturas de governança comercial.

Palavras-chave: Mecanismo de Solução de Controvérsias da OMC, Política Comercial da China, Governança Comercial Multilateral, Desafios de Conformidade, Resolução de Disputas Comerciais

Summary:

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1. INTRODUCTION

The Dispute Settlement Mechanism (DSM) of the World Trade Organization (WTO) plays a key role in resolving international trade disputes. As a major trading power, China actively participates in the dispute settlement system and advocates reform. Understanding China's involvement is crucial to assessing its evolving role in global trade and its implications for international law.

Dispute settlement mechanism provides a structured and justice conflict resolution process, promote the balance of the multilateral trading system. It helps reduce unilateral actions and ensures compliance with trade agreements, contributing to global economic stability. As scholars such as Jing Yu (Jing Yu, 2023) have pointed out, addressing abuse of the WTO's security exception, which could undermine the fairness of trade rules, is a key area where China needs to develop a stronger legal strategy.

China's growing influence in the dispute settlement system also poses challenges. As Ying Wang (Ying Wang, 2022) points out, the increasing complexity of global trade disputes, especially those involving major powers such as the US and the EU, requires better coordination between regional and multilateral dispute settlement mechanisms. Similarly, Zhang Jie (Zhang Jie, 2021) also pointed out that jurisdictional conflicts between the WTO dispute settlement mechanism and regional trade agreements must be handled carefully to avoid inconsistencies in the dispute settlement system.

2. BACKGROUND AND FRAMEWORK OF THE WTO DISPUTE SETTLEMENT SYSTEM

The WTO dispute settlement process aims to ensure fair trade dispute resolutions. It kicks off with consultations where parties try to negotiate a solution. If that fails, an expert panel reviews the issue and makes a decision. Either party can appeal the decision to the Appellate Body for a legal review. The Appellate Body's ruling is final, unless overturned by the DSB. If the loser doesn't follow the ruling, the winner can ask for penalties. Bernauer et al. (Bernauer et al., 2010) provide a comprehensive analysis of the WTO DSM's operational challenges, highlighting the difficulties of enforcing decisions and the risk of unilateral measures undermining the system's credibility.

The key principles here are the rights and duties of WTO members. Each member can challenge WTO rule violations and must follow the dispute settlement decisions. A panel rules on cases based on WTO rules and submits its decision to the DSB for approval. If a party disagrees, they can appeal to the Appellate Body.

China joined the WTO in 2001, which changed its trade practices. Since then, China has updated its laws, especially in intellectual property and trade remedies, to meet WTO standards. China has become more involved in the DSM, dealing with issues like anti-dumping and intellectual property rights. While enforcing some rulings is tough, China's role in the DSM shows it's a big player in global trade. As Lv Yunmou (Lv Yunmou, 2020) noted, China's position on WTO reforms, especially aligning its trade policies with global rules, is important for its credibility in the system.

3. CHINA'S ROLE IN THE WTO DISPUTE SETTLEMENT MECHANISM: KEY CASES, CHALLENGES, AND IMPACTS

Next, we will explore China's role and experience in this mechanism in depth. China's participation in the DSM has been marked by significant cases. For example, in a 2009 dispute between China and the United States over anti-dumping measures on Chinese products, the WTO ultimately ruled in favor of China, a case that highlighted China's growing influence in DSM. This case demonstrated China's growing influence in the DSM and its ability to challenge protectionist measures from major economies. Another notable case was the 2016 dispute with the EU over anti-dumping tariffs on Chinese steel, where China also won.

3.1 KEY CASES HIGHLIGHTING CHINA'S STRATEGIC ENGAGEMENT

U.S. – Anti-Dumping Measures on Chinese Products (DS379, 2009)

In this landmark case, the WTO ruled against U.S. anti-dumping duties on Chinese steel pipes, tires, and other goods, citing violations of the Anti-Dumping Agreement. China's victory underscored its growing legal acumen in challenging protectionist measures (WTO, 2011). This case marked a shift in China's approach from passive compliance to proactive litigation.²

EU – Anti-Dumping Duties on Chinese Steel (DS516, 2016)

The WTO ruled that the EU's use of "non-standard methodology" to calculate dumping margins on Chinese steel products breached WTO rules. This case highlighted China's ability to counter discriminatory trade practices and defend its export-oriented industries (WTO, 2020).³

U.S. – Tariffs on Chinese Solar Panels (DS562, 2018)

China challenged U.S. safeguard tariffs on solar panels under Section 201 of the Trade Act of 1974. Although the panel partially upheld U.S. measures, the case demonstrated China's resolve to address unilateral trade barriers through the DSM (WTO, 2021).⁴

3.2 COMPLIANCE CHALLENGES IN SENSITIVE SECTORS

China faces significant obstacles in implementing WTO rulings on intellectual property rights, with the typical case being the "China-Intellectual Property Protection Measures Case". In 2018, the United States accused China of failing to effectively protect the rights of patent holders, including mandatory requirements in technology transfer and weak patent enforcement. In 2020, a WTO panel ruled that some of China's measures violated the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) and required it to revise its patent law and eliminate discriminatory policies against foreign technology holders. Although China revised its Patent Law and Regulations on the Administration of Technology Import and Export in 2021, the Office of the United States Trade Representative (USTR) pointed out in its 2022 report that China still has

2 In https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds379_e.htm. Last access: April 30, 2025.

3 In https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds516_e.htm. Last access: April 30, 2025.

4 In https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds562_e.htm. Last access: April 30, 2025.

inconsistencies in implementation, such as vague review standards for technology transfer contracts, and some local governments continue to pressure foreign companies to transfer technology.

In addition, the EU's WTO lawsuit against China's patent injunction in 2025 (DSXXX) further highlighted the international community's concerns about China's judicial intervention in patent disputes, such as Chinese courts unilaterally setting global rates for European standard essential patents (SEPs), weakening the bargaining power of European companies.

China's compliance issues in the field of industrial subsidies have also triggered multilateral disputes. For example, China brought the US Inflation Reduction Act (IRA)'s new energy vehicle subsidy policy to the WTO, accusing it of violating the principle of non-discrimination by excluding China from the supply chain through the "foreign entity of concern" (FEOC) clause. However, China itself has also faced international criticism for its subsidy policies. The WTO has repeatedly ruled that some of China's industrial subsidies constitute prohibited subsidies, such as direct financial support for industries such as steel and photovoltaics, but implementation has been slow.

According to the USTR report, China will continue to maintain overcapacity through implicit subsidies from local governments in 2022-2024, such as providing tax breaks and low-cost land to electric vehicle battery manufacturers, leading to global market distortions. In addition, the "domestic substitution" clause in China's 2022 Chip and Science Act has been accused of violating WTO subsidy rules. Although China argues that it is in line with the right to development, Europe and the United States believe that such policies artificially lower costs and undermine fair competition.

3.3 GEOPOLITICAL AND SYSTEMIC IMPACTS

China's engagement reflects broader tensions between emerging and established powers. For example, its alignment with developing nations in advocating for DSM reforms—such as reviving the Appellate Body—contrasts with U.S. obstructionism (Brookings Institution, 2021). Additionally, China's Belt and Road Initiative (BRI) has prompted debates about jurisdictional overlaps between the DSM and regional agreements, as seen in disputes involving BRI partner countries (ICTSD, 2020).

In my view, China's attitude towards handling trade disputes has evolved, and it has struck a balance between safeguarding its own rights and complying with WTO rulings. While China has

succeeded in some cases, implementing rulings, particularly in areas like intellectual property and market access, has been challenging. Despite these difficulties, China generally complies with DSM decisions, as non-compliance could lead to sanctions or damage its global reputation. As Castel-Fodor (Castel-Fodor, 2013) discusses, the US-China trade disputes within the DSM often act as a release valve for underlying political tensions, with both countries using the DSM to assert their interests while managing trade frictions.

Compared to other major nations, China's role in the DSM is unique. The U.S. often challenges rulings that don't align with its interests, while the EU uses the DSM to strengthen multilateralism. China, as an emerging global power, uses the DSM to protect its interests while pushing for reforms that reflect its rising influence. As my point of view, China's evolving role in international trade law is influenced by changing global power dynamics, which require it to navigate complex political and legal landscapes.

In recent years, China has also embraced temporary fixes like the Multi-Party Interim Appeal Arbitration Arrangement (MPIA) to keep dispute settlement functioning even without a fully staffed Appellate Body. It has initiated new cases across different forums—last month, China formally requested consultations with the U.S. over additional tariffs, demonstrating its willingness to use legal channels to resolve tensions. At the same time, China supports the goal of a fully operational DSM by 2024, as reaffirmed at the WTO's 13th Ministerial Conference, underlining its commitment to evolve the system rather than abandon it. Beyond the WTO, China is also turning to regional agreements like the Regional Comprehensive Economic Partnership (RCEP) to settle trade disagreements, signaling a strategic diversification of its dispute resolution toolkit. This pragmatic approach—combining a push for reforms, active case initiation, and regional mechanisms—reflects China's nuanced strategy of strengthening its global trade governance role while safeguarding its economic interests.

4. POLICY RECOMMENDATIONS AND CHINA'S FUTURE ROLE

To strengthen its position in the DSM, China should focus on improving compliance with rulings, especially in sensitive areas like intellectual property and industrial subsidies. By aligning its domestic laws with WTO decisions, China can enhance its global reputation and avoid sanctions. Greater transparency in implementing DSM rulings will build trust among its trading partners. This

approach aligns with the recommendations by researchers such as Jing Yu (Jing Yu, 2023), who emphasized the importance of addressing exceptions that undermine the WTO system's effectiveness.

China should also play an active role in WTO decision-making, particularly in reforming the DSM. The WTO has faced challenges such as the Appellate Body's functionality and the rise of unilateral trade measures. China can help reform the DSM by advocating for more flexible and efficient dispute resolution methods, ensuring that the system remains fair and effective for all members. So I think such reforms are essential for maintaining the multilateral nature of global trade. It is a great contribution and experience reference made by China in world trade law, especially for developing countries.

Furthermore, China should help shape the future of international trade law by pushing for reforms that consider the needs of developing countries, such as improving market access and protecting intellectual property. China can also lead discussions on integrating environmental sustainability into trade policies and pushing for rules that reflect the digital economy and new technologies. As Lee (Lee, 2025) points out, this will be increasingly important as global trade faces new challenges related to unilateral barriers and technological shifts.

In conclusion, China's role in the DSM and international trade law will be crucial in shaping the future of global trade governance. By improving compliance, participating in DSM reforms, and influencing trade law development, China can continue to solidify its position as a key global trade player.

5. Conclusion

In general, this passage has examined China's role in the WTO Dispute Settlement Mechanism (DSM) and its broader impact on international trade law. While China has benefited from the DSM, such as defending its trade interests and asserting its rights within the multilateral framework, it faces significant challenges in aligning domestic policies with international commitments. This issue is central to the principles of international trade law, where the balancing act between sovereignty and global legal norms often requires complex adjustments. Moving forward, China must enhance compliance with WTO rulings and continue advocating for reforms that reflect the evolving nature of global trade. Finally, I would like to express my views on these contents again, the increasing complexity of international trade disputes, coupled with China's changing role in

global trade governance, demands constant adaptation in both legal strategy and institutional engagement. In this context, China's active participation in DSM reforms and its role in shaping the future direction of international trade law will be critical for ensuring the multilateral trade system remains equitable, transparent, and responsive to the challenges of the 21st century.

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