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WTO DISPUTE SETTLEMENT AND INDIA–CHINA TRADE CONFLICTS: A CRITICAL LEGAL ANALYSIS

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Abstract

The dispute settlement mechanism of the World Trade Organization (WTO) is regarded as a fundamental component of the multilateral trading system, as it resolves trade disputes based on established rules. The given mechanism gains specific significance in the context of India–China trade relations through the increasing amount of bilateral trade and the increasing number of conflicts related to anti-dumping policies, subsidies, and limitations to access the market. This paper critically analyses how WTO dispute settlement has been effective in resolving trade disputes between India and China. It assesses the level of adherence to WTO decisions, the procedural and structural constraints of the dispute settlement mechanism, and the strategic actions of both nations in this context. The paper also looks into the question of whether the existing WTO system suffices the problems of economic coercion and asymmetry in trade relations. It ends by mentioning that reforms are necessary to make the dispute-solving process more robust and promote fair decisions.

Introduction

The evolution of trade relations between India and China over the past two decades represents a complex interplay of cooperation and competition within the World Trade Organization (WTO) framework.

As two of the biggest emerging economies, India and China increasingly rely on international trade to prop up economic growth. Nonetheless, this booming trade association has also come with incessant quarrels, especially on issues related to anti-dumping tariffs, subsidies, and no tariff barriers. The main institutional mechanism by which such conflicts are resolved is the

WTO dispute settlement, which has the goal of ensuring that the adjudication arena is neutral and rule-based. Although the WTO dispute

settlement system has institutional importance, its effectiveness in settling trade disputes between India and China is open to critical observation. Despite the fact that both countries have been engaged in legal disputes at the WTO, issues of delays during litigation, compliance with rulings or even with limitations imposed by enforcement mechanisms have arisen. Furthermore, the growing application of strategic trade policies and economic leverage begs the question of whether the WTO structure is sufficiently prepared to manage new types of economic coercion and power asymmetries.

This paper aims to critically discuss how WTO dispute settlement can be used to address trade disputes between India and China. It discusses

how disagreements taken to the WTO are resolved, measures compliance and enforcement trends, and considers the extensive implications for the multilateral trading system. By Placing India-China trade disputes in the WTO's legal and institutional framework, this study serves to both exemplify the advantages and weaknesses of the existing dispute settlement regime and propose necessary reforms that should be reshaped over time to tackle the new challenges in trade governance across the globe.

1. Evolution of India-China Trade Relations under WTO Framework

China's accession to the World Trade Organization in 2001 marked a significant milestone in global trade dynamics, particularly impacting developing economies such as India. Trade between China and India has experienced exponential growth, establishing China as one of India's largest trading partners. Nevertheless, this rapid growth has been complemented by structural imbalances, with India always experiencing a large trade deficit with China.

The WTO system offers a rules-based framework that regulates trade relations, as it is now based on principles like the Most-Favored Nation (MFN), National Treatment, and transparency. As members of the WTO, both India and China are obliged to comply with its rules.¹¹¹⁷ However, domestic differences in the economic policies, industrial policies and also in the regulation have led to a frequent trade friction.¹¹¹⁸

India's objections have mostly been market accessibility hurdles in China, with some areas being pharmaceuticals and information technology. On the other hand, China has put a check on the application of trade remedies by India, such as anti-dumping levies and protectionism. These strains underscore the natural complexities of incorporating two major

and heterogeneous economies under a multilateral legal system.

The WTO dispute settlement mechanism (DSM) is an important tool for handling such disputes. Nonetheless, the growing politicization of trade affairs and the tactical utilization of economic instruments by both countries begs the question of whether WTO norms are sufficient in dealing with modern day trade issues.¹¹¹⁹

2. Character and Trend of India-China Trade Hedges.

The trade conflicts that have been experienced between India and China in WTO system have been based on three main areas, which include the, anti- dumping, subsidies and, the non-tariff barriers. These conflicts symbolize legal differences and a more in-depth economic rivalry between the two nations.

India has repeatedly levied anti-dumping taxes on Chinese imports, especially consumer goods, steel, and chemicals. These measures are allowed by WTO law, as long as they are observed in the provisions of the Anti-Dumping Agreement. However, China has always argued that these obligations are protectionist and not in line with WTO rules.

India, on the other hand, has expressed grievances about Chinese subsidies to industry and the presence of state-owned industries, which are seen to manipulate world markets. The WTO Agreement on Subsidies and Countervailing Measures (SCM Agreement) regulates the issue of subsidies but its measures have been accused of being inadequate to the complexities of state capitalism as engaged in by China.¹¹²⁰

Another significant area of conflict is non-tariff barriers. India has raised concerns regarding China's opaque regulations and approval delays, particularly in the pharmaceutical and

¹¹¹⁷ M. Gupta & J. K. Dhami, 'Analysis of India's Export Performance in the Pre and Post WTO Regime' (2012) 1 Arthshastra: Indian Journal of Economics & Research 26.

¹¹¹⁸ J. Y. Qin, 'China, India and WTO Law' (2010) (Cambridge University) 167-216.

¹¹¹⁹ K. G. Odilovna, 'Resolving Trade Disputes in a Globalized World: The Efficacy and Challenges of the WTO Dispute Settlement Mechanism' (2024) 4 International Journal of Law And Criminology 47.

¹¹²⁰ P. Svatoň & H. Drdlová, 'Old Rules in a New Era: The WTO and the Resurgence of Industrial Policy through the Lens of the SCM Agreement' (2025) Research Square.

agricultural sectors. Although such measures are not explicitly prohibited, they may be challenged by the WTO, especially when they exhibit discriminatory practices or are not transparent.

The pattern of disagreements can be summarized as follows: both countries actively engage with the WTO Dispute Settlement Mechanism (DSM); however, many conflicts remain unresolved through formal dispute resolution processes or are settled outside the context of dispute violations.

This indicates a disparity between legal frameworks and their practical applications.

3. WTO Dispute Settlement Mechanism: Structure and Function.

The WTO dispute settlement mechanism can be considered one of the most effective international adjudicatory mechanisms. It is controlled by the Dispute Settlement Understanding

(DSU), which can create a systematic method for fixing trading disputes.¹¹²¹

The process is initiated by consultations between the disputing parties. If these consultations fail, a panel is established. This panel may appeal to the Appellate Body, whose decisions are mandatory. The Dispute Settlement Mechanism (DSM) also encompasses provisions for compliance and enforcement, including the possibility of retaliation in instances of noncompliance.

The DSM has played a significant role in adjudicating law in the India/China controversies. There has been the willingness of the two countries in the system, which indicates their interest in multilateralism. Nonetheless, the success of the DSM is subject to the timeliness and adherence to decisions.

Over the past few years, the crisis in the Appellate Body has had a major impact on the functioning of the DSM, as it has not been able to

function because members have not been appointed. This has made the WTO system questionable in that the resolution to disputes is neither immediate nor definite.¹¹²²

In the case of India and China, this institutional stalemate is a big burden because it restricts the choice of a credible platform where to resolve complicated trade imbroglio. Therefore, there has been an upsurge in bilateral negotiations and unilateral actions, leading to concerns about the erosion of the multilateral trading system by both nations.

4. WTO Adherence to WTO Ruling: India and China in Perspective.

Compliance with WTO decisions is a crucial indicator of the effectiveness of dispute settlement procedures. India and China have generally displayed some level of conformity, although there have been significant incidences.

As a relatively new entrant into the WTO, China has had to comply with the WTO requirements. Although it has passed several rulings, there are fears of biased compliance and lagging in compliance with the rulings. Matters such as industrial subsidies and state intervention remain a challenge for complete compliance.

However, India has not been spared negative decisions in some of its cases, especially when it comes to trade remedies and domestic regulations. Although India has made efforts to ensure that its policies are operationalized in line with the requirements of the WTO, it has occasionally been accused of being slow to comply.

The compliance of the two nations is indicative of larger framework system problems in the WTO. The lack of powerful enforcement machinery implies that compliance is often based on political will rather than actual legal obligation. Retaliatory measures, though allowed, are not necessarily effective especially in case of imbalance in the economic power.

¹¹²¹ P. K. Baklaci, 'Dispute Settlement in International Trade Law' in Y. Aksar (ed), *Implementing International Economic Law* (Brill, 2011) 83.

¹¹²² I. B. N. Annisa, 'The Recent Crisis of the WTO Appellate Body: Is the WTO's Reform a Solution?' (2022) 11 *Yustisia Jurnal Hukum* 167.

This imbalance is especially high within the context of the relations between India and China and the fact that, due to its bigger economic size, India may not be able to make China comply through retaliation. This raises important questions about the effectiveness and fairness of the WTO dispute settlement system.

Compliance with WTO decisions remains a crucial indicator of the effectiveness of the dispute settlement procedures. Both India and China have demonstrated varying degrees of conformity with adverse rulings, though significant challenges persist in achieving full and timely implementation.¹¹²³

As a relatively new entrant to the WTO (acceded in 2001), China has faced intense scrutiny over its compliance record. While it has formally complied with several panel and Appellate Body rulings—particularly in early cases involving export restrictions on raw materials and certain intellectual property issues—persistent concerns surround its industrial subsidies, state-owned enterprises (SOEs), and non-market economy practices. The United States and other members have repeatedly highlighted China's inadequate notification of subsidies, continued provision of prohibited export subsidies, and opaque use of government guidance funds. Cases involving agricultural domestic support (rice, wheat, and corn) and various sector-specific subsidies illustrate a pattern where China often adjusts measures superficially while underlying state interventions remain intact. This “paper compliance” raises fears of systemic evasion, especially as China's economic model has grown more state-driven and mercantilist in recent years.

India, on the other hand, has a mixed but generally more transparent compliance record. It has faced adverse rulings in prominent cases concerning export promotion schemes (such as the SEZ and EPCG schemes found inconsistent with SCM Agreement prohibitions), solar power

domestic content requirements, and avian influenza-related import bans on poultry. In several instances, including the long-running US-India poultry dispute (DS430)¹¹²⁴, India eventually amended its measures, though implementation sometimes extended beyond reasonable time periods through compliance proceedings. India's efforts to align policies with WTO obligations are evident in its periodic notifications and policy revisions; however, critics accuse it of procedural delays and occasional use of trade remedies in ways that stretch WTO boundaries, particularly in antidumping and safeguard actions.

The compliance patterns of both nations reveal deeper structural weaknesses in the WTO system. The absence of robust enforcement machinery—exacerbated by the ongoing Appellate Body crisis since 2019—means that implementation largely depends on political will rather than automatic legal compulsion. Retaliatory measures, while permitted under Article 22 of the DSU, often prove ineffective due to economic asymmetries. In the India-China context, this imbalance is particularly stark: India's relatively smaller export market leverage vis-à-vis China limits the deterrent effect of authorized retaliation, potentially allowing larger economies to absorb or circumvent pressure more easily.

Recent disputes, such as China's 2025 complaints against India's Production Linked Incentive (PLI) schemes in solar modules, electric vehicles, and batteries, further test this dynamic. These cases highlight how industrial policy ambitions on both sides collide with WTO subsidy disciplines. Ultimately, the experiences of India and China underscore questions about the fairness and efficacy of the DSM. Without meaningful reforms to address enforcement gaps, judicial paralysis, and special challenges faced by developing countries, compliance will continue to reflect power realities more than rule-based commitments, undermining the

¹¹²³ United States Trade Representative, 2024 Report to Congress on China's WTO Compliance (2025).

¹¹²⁴ India – Measures Concerning the Importation of Certain Agricultural Products, WT/DS430 (WTO, 2015, compliance proceedings concluded 2024).

multilateral trading system's credibility in resolving complex bilateral trade conflicts.¹¹²⁵

5. WTO Law shortcomings in dealing with Economic Coercion.

The WTO system is among the systems that have severely struggled to counter economic coercion, which is considered one of the biggest problems of the system. Economic coercion is described as the concept of using trade policies to influence a country politically, or strategically.

In this instance of India-China relations, where trade limitations and informal barriers, together with regulation measures, are seen as leverages in economic endeavors, have been expressed as a source of concern. On the one hand, these measures do not necessarily involve a clear violation of WTO regulations, but in other cases, they can be associated with serious economic and political consequences.

The WTO system is mainly aimed at dealing with formal trade barriers, that is, tariffs and quotas. It is less efficient in handling informal or opaque measures, which can rarely be proven and challenged. In addition, there can be a greater burden of proof in WTO disputes; therefore, countries such as India may find it difficult to prove violations.

This problem is aggravated by the concept of national security exceptions. Article XXI of the General Agreement on Tariffs and Trade (GATT) allows countries to undertake steps to protect their vital interests in security. This has been progressively used in the past few years and some questions have been raised on whether it may be abused.¹¹²⁷

The shortage of WTO law regarding economic coercion shows the necessity to implement changes so that the system is brought to date in accordance with new trade practices.

6. Reforming WTO Dispute Settlement: The Way Forward.

The issues highlighted in the sections above indicate why the WTO's dispute settlement process needs to be overhauled. Reforms in the multilateral trading system are essential to enhance its effectiveness, credibility and fairness. The reinstatement of the Appellate Body is one such reform. It is important to control the correct operation of the appellate mechanism to preserve DSM integrity. The lack of an effective Appellate Body means that the predictability and consistency of WTO rulings are greatly compromised.

The other reform measure concerns enhancing compliance. This may involve the introduction of efficient enforcement mechanisms and mechanisms to deal with any delays in implementation. An increase in transparency and compliance monitoring would also have a positive impact. The problem of economic coercion requires a more subtle solution. The WTO might require new regulations or interpret current provisions in such a way that reflects informal and indirect trade restrictions. This would entail increased collaboration between member states and the desire to readjust the legal framework to the realities of the time. In India, boosting home trade policy and upgrading legal capabilities to handle WTO litigation are essential. In China's case, enhanced transparency and conformity to WTO guidelines would help minimize trade tensions.

Whether the Indian-Chinese trade relationship will continue to thrive in the context of the WTO will be determined by the capability of both nations to interact and respect the values of the multilateral trade system. The effectiveness of the WTO in handling such a relationship will then be one of the tribunals that will determine its usefulness to the new global economic landscape.

¹¹²⁵ China — Certain Measures Concerning Certain Indian Incentive Programmes (Consultations requested October 2025, WT/DS642)

¹¹²⁶ Georgetown International Law Journal, 'From Defense to Offense in WTO Disputes: China's Shifting Strategy' (21 January 2026).

¹¹²⁷ S. Mantilla Blanco & A. Pehl, 'The First Generation of National Security Exceptions: The GATT and Its Legacy' in National Security Exceptions in International Trade and Investment Agreements (Springer, 2020) 5

Conclusion

An investigation into the trade relations between India and China in the context of the World Trade Organization shows a complicated interplay of legal norms, economic interests, and geopolitical concerns. While the WTO's dispute settlement mechanism (DSM) provides a legislative and rulebased framework for resolving trade disputes, it has proven inadequate in addressing the evolving complexities of trade disputes between India and China.

The paper shows that, despite both India and China taking a proactive part in interacting with the DSM, the results have largely been limited by bureaucracies and obstacles in compliance, as well as the lack of effective enforcement strategies. The Appellate Body has also been thrown into paralysis, further hampering its effectiveness in providing timely and binding resolution. Consequently, both nations have turned to unilateralism and bilateral agreements, watering down the multilateral system's centrality.

Furthermore, increased economic coercion and strategic trade practices raise critical WTO-legal loopholes. Current regulations do not have sufficient provisions for handling informal obstacles, government-motivated economic policies, and unequal power dynamics. This poses an unbalanced playing field, especially for developing economies such as India, as opposed to bigger economic giants such as China.

Considering these difficulties, there is an urgent need to introduce drastic changes to the WTO system. The re-establishment of the Appellate Body, strengthening of dispute settlement mechanism, and increasing the coverage of WTO rules in relation to modern trade practices are necessary measures. Finally, the sustainability of the relationship between India and China in the WTO will rely on the new pledge to multilateralism, openness, and fair application of international trade law.

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