Measures Taken Against the Convicted Member to Implement the Rulings of the World Trade Organization's Dispute Settlement Body

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Abstract:

World Trade Organization (WTO) members are obligated to settle their disputes exclusively through the Dispute Settlement Body (DSB), which is supported by an enforcement mechanism. This makes the rules and procedures outlined in the Memorandum of Dispute Settlement Understanding (DSU) more precise, clear, and stringent in dealing with violations and their perpetrators. The memorandum prevents members, regardless of their economic power, from taking unilateral individual measures against other members who violate international trade policies from their perspective.

Shall the respondent party fails to implement the DSB's rulings and recommendations, the complaining member has the right to enter negotiations with the respondent member to obtain compensation, in compliance with the WTO's principles, including the Most-Favored-Nation (MFN) principle. If the disputing parties do not agree on compensation, the complaining party has the right to progressively suspend concessions and privileges until the convicted party implements the decisions that oblige it to cease actions that caused harm to the complaining party.

1. Introduction:

The Dispute Settlement System of the World Trade Organization (WTO) stands out among intergovernmental agreements[1]. The WTO requires any member wishing to join to agree to settle any disputes that may arise between it and other members concerning the rights and obligations stipulated in the agreements covered by the organization, in accordance with the rules of the Memorandum of Understanding. The DSU, established under Article 2, created the Dispute Settlement Body (DSB) in order to administer the rules and procedures of this memorandum. According to Article 4 of the memorandum, the DSB comprises chairperson and representatives of all WTO members, and the Body makes all its decisions by consensus. As stipulated in Article 27 of the memorandum, the DSB holds one meeting per month unless one of the members requests an additional meeting from the Director-General of the Body. The administrative staff of the WTO Secretariat provides administrative support to the Dispute Settlement Body.

The Body seeks to resolve disputes arising between members through two methods:

- **Amicable Method:** This requires members to enter into bilateral consultations to resolve the dispute, as stipulated in Article 4 of the memorandum. If these consultations fail, the disputing parties shall have the right to resort to diplomatic means such as good offices, conciliation, and mediation, in accordance with Article 5 of the memorandum. Additionally, the disputing parties may refer the matter to an arbitration panel within the Body to examine the dispute, and the Body covers the arbitrators' expenses as per Article 25 of the memorandum.
- **Judicial and Mandatory Method:** This method entails the formation of specialized settlement panels to examine the dispute at hand. These panels generate comprehensive reports to be subsequently referred to the Dispute Settlement Body. These reports include recommended solutions to the disputes that may be subject to appeal through the Appellate Body, which performs a thorough legal review of the findings.

Decisions issued by the Dispute Settlement Body are binding on all member states. According to Article 22 of the memorandum, shall any member fail to implement these decisions, the Body imposes appropriate sanctions on that member by granting the affected party the right to claim suitable compensation, or by taking countermeasures, such as suspending privileges and obligations against the non-compliant member in proportion to the damage caused. However, the compensation agreed upon between the complaining party and the respondent party, although temporary, must comply with the principles upon which the organization is founded. This means that it must align with the Most-Favored-Nation (MFN) principle, which mandates that any advantage or benefit granted by any member of the organization to any other party,

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[1] P, MAVROIDIS, & E, VERMULST. “The Case for Dropping Preferential Rules of Origin”, ***Journal World of Trade*** 52, no.1, 1-41, (2018).

whether a member of the organization or not, shall be extended to all members of the organization. If the compensation is provided in the form of tariff reductions or granting benefits within a specific trade sector, these benefits and reductions must be extended to all member countries of the organization. This extension may limit the effectiveness of the compensation mechanism as this mechanism result in significant harm to the respondent state.

2. Compensation Mechanism as a Penalty Against the Convicted Party for Non-Implementation of Dispute Settlement Decisions:

Although compensation in its role does not necessarily constitute full compliance with the decisions issued against the convicted party, it can compensate for non-compliance and grant the affected party their right, albeit partially[2].

Compensation is due according to Paragraph 1 of Article 22 of the memorandum if the respondent party does not implement the decisions and recommendations issued against it within a reasonable period. The non-compliant party must enter into negotiations with the party in whose favor the decision was issued to reach an acceptable compensation for both parties. It becomes evident that compensation is the first step towards compelling countries to comply with the decisions issued by the Dispute Settlement Body, and that compensation within the framework of the World Trade Organization is characterized by specific features that align with the organization's legal system.

2.1. Characteristics of the Compensation System within the Framework of the World Trade Organization:

Compensation must possess a set of characteristics that align with the legal system of the World Trade Organization, according to the Memorandum of Understanding.

2.1 (a) - Voluntary Character of Compensation:

According to the general rules of international responsibility, compensation is considered a natural consequence of state responsibility, meaning it is an obligation incurred on the state resulting from an unlawful act that caused harm to another state. This implies that the obligation to compensate arises for the state as soon as it commits an unlawful act under international law3. However, unlike compensation under the rules of international law, compensation under the rules of the World Trade Organization does not arise as a natural consequence of the state's unlawful act, but rather as a voluntary, non-binding act incurred on the state that caused harm to another state after entering into negotiations with the affected state to agree on the nature and form of the compensation, which can be either material or non-material, according to Paragraph 1 of Article 22 of the DSU.

[2] D, Wiliam. “Compliance Problems in WTO Dispute Settlement”, ***Cornell International Law Journal***, 42(1), p-p 119-128, (2009).

[3] A, Boudjell. "The System of Compensation in World Commerce Organization: Is it particular to the Commerce Law or to the Commerce Power?",***Journal of Sharia and Law***,51, p-p 309-354, (2012).

It has been confirmed by the Dispute Settlement Body that compensation is consensual between the disputing countries. During the Body's consideration of the dispute between Norway and the United States of America, known as the "City of Trondheim" dispute, which involved the unlawful awarding of a public tender, the United States requested the settlement panel to recommend that Norway negotiate a mutually satisfactory solution, taking into account the lost opportunities for American companies, by providing retroactive compensation. The settlement panel then concluded that the America's request for retroactive compensation from Norway was unjustified because compensation must be forward-looking. In any case, the amount and method of compensation must be negotiated with Norway and agreed upon by it[4].

2.1 (b) - Compensation as a Temporary Mechanism.

Paragraph 7 of Article 3 of the memorandum contains a provision that emphasizes the temporary nature of compensation, stating: "*Compensation should only be resorted to if immediate withdrawal of the measure is impractical, and compensation should be considered as a temporary measure pending the withdrawal of the measure that is inconsistent with a covered agreement*." Article 22(1) highlights that compensation and concession suspensions are temporary solutions when rulings are not enforced within a reasonable period. However, full implementation remains the preferred course of action to ensure alignment with the covered agreements, rather than relying on compensation or the suspension of concessions. Compensation is thus considered a temporary solution until the party responsible for the harm implements the decisions issued against it. Compensation allows the affected party to enter into negotiations with the respondent to obtain material or commercial benefits until the latter implements the decisions issued against them by the Body. The primary goal of the memorandum is to halt the procedures that caused harm to the complainant party[5].

For example, in the dispute between the European Union and the United States of America in 2002, regarding the latter's violation of its obligations concerning copyright under the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), the Dispute Settlement Body issued a ruling requiring the United States to suspend the procedures that caused harm to the other party. Because of America's failure to immediately stop these procedures, the parties agreed on a temporary arrangement for three years that was satisfactory to both parties. The United States agreed to pay compensation in the form of a lump sum into a fund established by the performance rights organizations of European societies to provide general assistance to their members and promote authors' rights, pending the suspension of the harmful procedures[6]. It becomes clear that compensation is a temporary mechanism that allows

[4] Report of the Panel adopted by the Committee on Governement Procurement on 13 May 1992, Doc, (GPR.DS2/R), NORWAY - PROCUREMENT OF TOLL COLLECTION EQUIPMENT FOR THE CITY OF TRONDHEIM

[5] Report of South Centre trade Analysis on October 2005, Doc SC/TADP/TA/DS/1, ***THE WTO DISPUTE*** *SETTLEMENT SYSTEM: ISSUES TO CONSIDER IN THE DSU NEGOTIATIONS.*

[6] See WTO Secretariat. *WORLD TRADE ORGANIZATION A Handbook on the WTO Dispute Settlement System*, second edition, p140, (2017).

the affected party to receive future benefits to mitigate the damage suffered in the past, in cases where the party causing the harm cannot immediately cease its negative actions.

A. Material Compensation:

Compensation aims to restore the situation to its original state before the damage occurred by the responsible party. Compensation takes the form of an agreement and may cover the losses incurred by the injured party or the profits they lost. Alternatively, the injured party may accept a certain monetary amount that does not fully compensate for their losses but is accepted to resolve the dispute. The International Court of Justice, in the 1928 Chorzów Factory case, described compensation and the obligation to make reparation as "*a principle of international law, and even a general concept of law*[7]".

Among the cases adjudicated by the Dispute Settlement Body regarding the compensation mechanism is the complaint filed by Brazil against the United States of America, in 2002, concerning subsidies provided by the latter to American cotton exporters. After the failure of bilateral consultations and the establishment of a special settlement panel, the panel issued a ruling requiring the United States to cease the subsidies provided to American cotton exporters. The United States appealed the panel's decision, but the Dispute Settlement Body's ruling aligned with the panel's report, mandating the cessation of the subsidies by the United States. With the United States of America's' non-submission with the Dispute Settlement Body's decisions, Brazil suspended certain privileges related to its trade relations with the United States. In 2014, Brazil and the United States notified the Dispute Settlement Body that, according to Paragraph 6 of Article 3 of the DSU, they had reached a memorandum of understanding and agreed to terminate this dispute. As a result, no suspension of privileges against the United States was be applied under the previously granted authorization by the Dispute Settlement Body to Brazil[8]. Through the joint memorandum, the two parties agreed that the United States would provide Brazil with compensation of $300 million to the Brazilian Cotton Institute until all provisions of the memorandum were implemented and all subsidies provided by the United States to local cotton exporters[9] were ceased.

The previous example demonstrates the importance of compensation for the affected party. Although compensation must be agreed upon by the disputing parties, the party responsible for the harm prefers to provide material compensation rather than face the potential damage caused by the complainant suspending privileges and concessions in their trade relationship.

[7] Report of the PERMANENT COURT OF INTERNATIONAL JUSTICE, PCIJ Series, on 13 September 1928, Doc A. No 17, FACTORY AT CHORZÓW (MERITS).
[8] DISPUTE SETTLEMENT DS267: United States — Subsidies on Upland Cotton, on 16 October 2014, see https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds267_e.htm (accessed 7-2-205).
[9] *Report of world trade organization*, on 23 October 2014, Doc, WT/DS267/46, UNITED STATES – SUBSIDIES ON UPLAND COTTON NOTIFICATION OF A MUTUALLY AGREED SOLUTION.

B. Compensation through the Removal of Trade Restrictions:

Compensation in this case occurs when the disputing parties do not agree on material compensation to be provided by the convicted party to the complainant for the harm caused, until the measure that caused the harm is lifted. The respondent then resorts to proposing the removal of trade restrictions, such as reducing tariffs on the complainant's exports or granting concessions in specific sectors to the complaining state. However, this type of compensation is subject to certain rules. According to Articles 21 and 22 of the DSU compensation must be in compliance with the rules of the World Trade Organization and the agreements it covers. This means that the compensation must be consistent with the obligations of the Most-Favored-Nation (MFN) principle as stipulated in Article 1 of the General Agreement on Tariffs and Trade (GATT) 1994[10]. The principle dictates that any customs duties, charges, or fees related to imports, exports, or international transactions must be applied consistently. Additionally, all rules and procedures governing import and export processes must be uniformly enforced. Any preferential treatment, advantages, or exemptions granted by one member state to a specific product must be extended immediately and without conditions to similar products from all other contracting parties[11]. This means that the compensation provided by the respondent to the complainant must be extended immediately and unconditionally to the other members of the agreement under which these privileges are granted.

For example, in 1996, India requested consultations with Turkey regarding Turkey's imposition of quantitative restrictions on imports of a wide range of textile and clothing products. India alleged that these procedures were inconsistent with Articles XI and XIII of the GATT 1994. Due to the failure of the consultations to resolve the dispute, India requested the establishment of a special panel. In 1998, the Dispute Settlement Body established a special panel, which reported that Turkey's procedures were inconsistent with Articles XI and XIII of the GATT 1994 and also with Article II:4 of the Agreement on Trade and Tariffs. The panel also rejected Turkey's assertion that its procedures were justified under Article XXIV of the GATT 1994.

In 1999, Turkey announced its intention to comply with the recommendations and rulings of the Dispute Settlement Body. On January 7, 2000, the parties informed the Dispute Settlement Body that they had agreed that the reasonable period for Turkey to implement the recommendations and rulings would end on February 19, 2001. Under the agreement, Turkey was also to refrain from imposing more restrictive procedures affecting imports of specific textile and clothing products from India and to increase the quotas for India's specific textile and clothing products. Turkey was required to ensure that India received the same favorable treatment as other members concerning the removal or adjustment of quantitative restrictions on any products included in the agreement.

In 2001, the disputing parties informed the Dispute Settlement Body that they had reached a mutually acceptable solution regarding Turkey's implementation of the decisions adopted by

[10] WTO Secretariat. WORLD TRADE ORGANIZATION *A Handbook on the WTO Dispute Settlement System*, 2nd edition, p140, (2017).
[11] THE GENERAL AGREEMENT ON TARIFFS AND TRADE, 1986, Article 1.

the Dispute Settlement Body on this matter. As part of the agreement, Turkey committed to compensating India by lifting the quantitative restrictions imposed on textile categories 24 and 27 for Indian imports. According to the agreement, the compensation would remain in effect until Turkey removed all quantitative restrictions applied since 1996 on imports from India concerning category 19 of textile and clothing products[12].

The previous example demonstrates that Turkey violated the rules of the Most-Favored-Nation (MFN) principle, which mandates that all members treat each other equally concerning privileges related to import and export processes. On the other hand, it is evident that compensation is temporary until the respondent member removes the procedures that caused harm to the complainant member.

Commitment to applying the principles of the World Trade Organization, especially the MFN principle, can limit the implementation of an important phase of dispute settlement within the framework of the WTO. This phase is the agreement between the disputing parties on compensation in the form of concessions or trade privileges. The party providing the compensation shall have to extend these benefits to all members of the agreement, which could cause significant commercial harm, leading the party to reconsider offering compensation in this manner. When applying this to the previous example, it can be concluded that: if Turkey granted benefits to India under another agreement or other categories within the same agreement, Turkey would be required to extend these benefits to all members of the agreement.

3. Suspension of Obligations or Privileges as a Penalty Against the Member Concerned with Implementing the Decisions of the Dispute Settlement Body:

According to Article 22 of the memorandum, if the disputing parties do not agree on a compensation that is satisfactory to the affected party, the latter may, after 20 days from the end of the reasonable period for compensation, resort to the Dispute Settlement Body and request permission to suspend some privileges or concessions related to its trade relations covered by World Trade Organization agreements with the respondent party[13]. The party requesting authorization to suspend obligations must specify the reasons for making this request and send the request to the body itself and to the relevant councils of the World Trade Organization[14].

According to Paragraph 3 of Article 22, the suspension of privileges and concessions must be organized according to specific rules. The suspension should be in the same sector where the violation occurred, and if this is not effective or feasible, the party may suspend privileges in other sectors under the same agreement. If this suspension is not beneficial and only in cases where the circumstances are serious enough, privileges may be suspended under another agreement covered by the World Trade Organization. This type of rationale stems from the

[12] DISPUTE SETTLEMENT DS34: Turkey — Restrictions on Imports of Textile and Clothing Products, on 6 July 2001, see https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds34_e.htm (accessed 8-10- 2024).
[13] C, Bown& J Pauwelyn. ***The Law, Economics and Politics of Retaliation in WTO Dispute Settlement***, (2010) p.25.
[14] M, Hilal. *Settlement* ***of trade disputes within the framework of the World Trade Organization****, on April1998, Doc* E/ESCWA/ED/1998/3.

concept of retaliation (harming the offender - an eye for an eye)[15]. It is also known as the system of cross-retaliation measures (les retorsions croisées), which allows the complainant member to suspend obligations or privileges in a different area than the one in which the settlement panel or Appellate Body found the respondent member to have violated its commitments. For example, the complainant can suspend concessions in the area of goods even though the respondent violated its commitments in the areas of services or intellectual property[16].

For example, in the 1995 dispute between the European Union and a group of Latin American countries, Ecuador requested the Dispute Settlement Body to suspend certain privileges and obligations against the European Union to compel it to implement the Dispute Settlement Body's decisions. Although the dispute fell under GATT 1994, Ecuador requested a $450 million suspension of privileges under TRIPS 1994 and GATS 1994, as GATT enforcement was impractical and ineffective [17]. The arbitrators' report stated, "The level of suspension requested by Ecuador exceeds the level of nullification and impairment caused to it as a result of the European Union's failure to bring its banana import regime into conformity with WTO law within the expected reasonable period for this purpose[18]."

According to Paragraph 6 of Article 22 of the DSU, the respondent member is allowed to object to the level of suspension of obligations or privileges imposed by the complainant party. The respondent may also claim that the procedures and principles followed by the complainant, as stated in Paragraph 3 of Article 22, were not respected and were exceeded[19]. This objection is decided through arbitration, which may be conducted by the special settlement panel that handled the dispute or by another arbitrator appointed by the Director-General of the World Trade Organization. The arbitrator's task is to determine whether the concessions or obligations to be suspended by the complainant are equivalent to the damage caused by the violations committed by the respondent member. The arbitration must decide on this objection within 60 days from the date of assuming the task and must inform the Dispute Settlement Body of the decision immediately upon issuance. The body will then issue its decision on the suspension of obligations or privileges if it is consistent with the arbitration decision, unless the Dispute Settlement Body decides by consensus to reject the request for suspension of obligations and privileges[20].

In practice, according to statistics published on the official website of the World Trade Organization between 1995 and 2023, 40 requests were submitted to the Dispute Settlement Body for the suspension of privileges and obligations against the respondent member. Of these requests, 21 were referred to arbitration to object to their extent[21].

[15] A, Mitchell, ***Legal Principles in WTO Disputes***, (2008), p213.
[16] M, Yousef, ***Studies in Permanent International Justice***, (2019), p93.
[17] WORLD TRADE ORGANIZATION, 24 March 2000, Doc WT/DS27/ARB/ECU, EUROPEAN COMMUNITIES - REGIME FOR THE IMPORTATION, SALE AND DISTRIBUTION OF BANANAS - RECOURSE TO ARBITRATION BY THE EUROPEAN COMMUNITIES UNDER ARTICLE 22.6 OF THE DSU - DECISION BY THE ARBITRATORS.
[18] Ibid, p3.
[19] ***Understanding the Rules and Procedures Governing the Settlement of Disputes***, (1994).
[20] A, Yamameh." ***World Trade Organization Dispute Settlement System Mechanism and Applicable Law"***, (2000). p71.
[21] World Trade Organization Dispute Settlement Activity — some figures 2023, See

The stage of suspending obligations or concessions by the complainant party is considered a temporary solution because the Memorandum of Understanding prefers the cessation of procedures taken by the respondent party that caused harm to the other party. Paragraph 3 of Article 7 of the DSU states that the primary goal of the dispute settlement system is "*to secure the withdrawal of procedures found to be inconsistent with the WTO Agreement*[22]."

As a practical example to explain this mechanism, in 1999, the European Union requested consultations with the United States concerning Section 110 (5) of the U.S. Copyright Act, as amended by the Fairness in Music Licensing Act of 1998. The European Communities alleged that Section 110 (5) of the U.S. Copyright Act permits, under certain conditions, the public performance of radio and television music in public places (bars, shops, restaurants, etc.) without paying royalty fees. The European Communities argued that this law was inconsistent with America's commitments in Article 9(1) of Intellectual Property Rights (TRIPS) Agreement's Trade-Related Aspects.

Due to the failure of bilateral consultations to resolve this dispute, the European Union requested the Dispute Settlement Body to establish a special panel to resolve the dispute. The panel, which was indeed formed, concluded that the United States had violated its commitments under the TRIPS Agreement, and that the vast majority of eating and drinking establishments and nearly half of retail establishments were covered by the commercial exemption granted by the U.S. Copyright Act. The Dispute Settlement Body adopted the panel's report at its meeting on July 27, 2000.

Subsequently, the United States requested a reasonable period to implement the Dispute Settlement Body's decisions, which was agreed upon by both the European Union and the Body. In 2002, the European Union, citing the United States' failure to bring its procedures into compliance within a reasonable period, requested authorization from the Body to suspend privileges under Article 22.2 of Dispute Settlement Understanding. The European Union proposed suspending privileges under the TRIPS Agreement and stated that it would determine the amount of special duties imposed on U.S. citizens concerning border procedures related to copyright-protected goods to ensure that the level of affected U.S. benefits did not exceed the level of European Union benefits nullified or impaired as a result of the U.S. Copyright Act's inconsistency with WTO law.

The United States objected to the level of suspension of obligations proposed by the European Union and requested the Dispute Settlement Body to refer the matter to arbitration under Paragraph 6 of Article 22 of the DSU. The United States also claimed that the principles and procedures outlined in Paragraph 3 of Article 22 had not been followed.

During the Dispute Settlement Body meeting on January 18, 2002, the parties indicated they were engaged in constructive negotiations and hoped to reach a mutually satisfactory

https://www.wto.org/english/tratop_e/dispu_e/dispustats_e.htm#:~:text=As%20of%2031%20December%202023,formal%20rulings%20to%20resolve%20them , (accessed 2-7-2025).

[22] Report of South Centre Trade Analysis on October 2005, Doc SC/TADP/TA/DS/1, "The WTO Dispute Settlement System: Issues to Consider in The DSU Negotiations", p.18.

resolution. On February 26, 2002, the parties requested the arbitrator to suspend the arbitration proceedings, noting that the procedures could be reactivated at the request of either party after March 1, 2002. In 2003, the United States and the European Union informed the Dispute Settlement Body of a temporary agreement that satisfied both parties, covering the period until December 20, 2004. Subsequently, the United States submitted status reports to the Dispute Settlement Body, indicating that the U.S. administration would work closely with the U.S. Congress and continue consultations with the European Union to reach a mutually satisfactory resolution of the dispute[23].

The previous example illustrates that the suspension of privileges and concessions by the complainant, as authorized by the Dispute Settlement Body against the member concerned with implementing the body's decisions, effectively pressured the offending member causing the harm. Recognizing the severity of the penalty and the significant commercial harm it could cause, the offending member promptly negotiated with the complainant to resolve the dispute and withdraw its harmful procedures.

The suspension of concessions and privileges is considered the last resort, employed when the violating party of its obligations fails to withdraw the violating procedures. Despite the numerous instances where such measures have been authorized, they have been implemented in practice only in very few cases[24].

4. Conclusion:

Dispute settlement within the framework of the World Trade Organization is conducted before the Dispute Settlement Body according to the rules of the Memorandum of Understanding. The DSB allows members to settle their disputes amicably; if they fail to reach a solution, the DSB resolves disputes through mandatory procedures. The decisions issued by the are binding for the offending member to implement. These decisions are supported by a robust enforcement mechanism against the member that fails to implement them. The affected party has the right to demand compensation for the harm suffered, in agreement with the offending party, without violating the agreements and principles of the organization. If no agreement is reached regarding compensation, the complainant has the right to seek authorization from the Dispute Settlement Body to suspend obligations or privileges granted to the respondent in their trade relations, to the extent that ensures the respondent's compliance with the body's decisions. All these measures are temporary until the offending member implements the decisions issued against it.

CONCLUDING REMARKS:

In conclusion, our research has led to a series of findings and recommendations:

[23] World trade organization DISPUTE SETTLEMENT DS160: United States — Section 110(5) of US Copyright Act, on 19 February 2002, see https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds160_e.htm, (accessed 2-7-2025).
[24] S, Hakima, "The Specificity of the Sanctions Regime Within the Framework of the World Trade Organization, ***Algerian Journal of Legal and Political Sciences***, 54(4),(2017), p-p 591-615.

Results:

1. The complainant party, in case of non-compliance by the respondent with the decisions issued by the Dispute Settlement Body, may enter into negotiations to obtain appropriate compensation. This compensation can be either monetary or through the suspension of certain trade restrictions.
2. The compensation provided by the respondent to the complainant must comply with the agreements and principles covered by the organization, meaning that the compensation must align with the Most-Favored-Nation principle.
3. Adhering to the Most-Favored-Nation principle limits the application of compensation through the mechanism of suspending trade restrictions, as the respondent must extend the same privileges granted to the complainant to other parties covered by the same agreement.
4. The complainant, if no agreement is reached with the respondent on compensation, and after obtaining the approval of the Dispute Settlement Body, has the right to gradually suspend obligations and privileges that cover their trade relations.
5. The mechanism of suspending obligations and concessions serves as a pressure tool on the offending party, driving it to negotiate with the complainant party due to the significant commercial harm that can be caused to its trade.

Recommendations:

1. It is necessary to grant more flexibility in the application of the compensation mechanism, as it reopens the field for negotiations between disputing members. Requiring the offending party to adhere to the Most-Favored-Nation principle when the parties agree to grant compensation by lifting trade restrictions makes the principle of limited effectiveness. There is no harm in temporarily not applying this condition if it would redress the harm suffered by the complainant.
2. The compensation mechanism, in case of disagreement between the disputing parties, should become mandatory through arbitration. This would impose compensation that contributes to reducing the losses of the injured party, with this compensation being subject to annual increases until the respondent complies with the decisions issued by the Dispute Settlement Body. The suspension of obligations or concessions will not benefit developing countries in their relationships with major economic powers

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[5] Report of South Centre trade Analysis on October 2005, Doc SC/TADP/TA/DS/1, *THE WTO DISPUTE SETTLEMENT SYSTEM: ISSUES TO CONSIDER IN THE DSU NEGOTIATIONS.* https://www.southcentre.int/wp-content/uploads/2013/07/AN_DS1_WTO-Dispute-Settlement-Issues-to-consider-in-DSU-negotiations_EN.pdf

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https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=Q:/WT/DS/27ARBECU.pdf&Open=True

[15] *Understanding the Rules and Procedures Governing the Settlement of Disputes*, (1994). https://www.wto.org/english/docs_e/legal_e/28-dsu.pdf

[16] A, Yamameh, *World Trade Organization Dispute Settlement System Mechanism and Applicable Law*, (2000).

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