

**THE PARTICIPATION OF DEVELOPING COUNTRIES IN THE
DISPUTE SETTLEMENT SYSTEM OF THE WTO**

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ABSTRACT

International trade relations have become much more legalised under the World Trade Organization (WTO) than under the former international trade system created pursuant to the General Agreement on Tariffs and Trade (GATT). The Dispute Settlement Understanding (DSU) of the WTO clearly represents a shift toward a rule-oriented, legalistic and adjudicative approach, which is intended to enhance that status of, and confidence in, the WTO dispute settlement system. The approach is likely to ensure greater stability and predictability in the system by encouraging precise decisions on the merits of disputes and discouraging infractions. Its greater binding effect serves as a powerful disincentive to those Members who have a propensity to favour unilateral measures to solve international trade disputes. This is particularly beneficial for developing countries that sought a system which recognises their disadvantaged position compared to the greater bargaining and retaliatory power of developed countries. However, despite the positive assessment of the WTO dispute settlement system, the functioning of the system is working against the interest of developing countries in having an efficient dispute settlement system that considers their needs and deals fairly with their disputes.

This thesis examines the participation of developing countries in the dispute settlement system of the WTO, and argues that they are in a disadvantageous position compared to their developed counterparts. The system's failure to effectively address or efficiently deal with this position is an evidence of its bias against and deficiency towards developing countries' participation. The thesis focuses on the problematic issues developing countries face throughout their use of the system. It also considers the role that the DSU has played in addressing these issues and the efficiency of that role in restraining and limiting their effect on developing countries' participation in the system. The thesis analyses some ideas on the reform of the DSU that have been proposed through WTO negotiations or literature, and discusses their applicability on the current dispute settlement system. Finally, the thesis employs these proposals along with its discussion on the subject to introduce a reformed model of the DSU which is more sensitive to developing countries' concerns in the system in order to help providing an understanding of how such modifications could be carried out in future reforms on the DSU.

CANDIDATE'S CERTIFICATE

This is to certify that I, Saleh Al. Shraideh, have not submitted this research work for a higher degree to any other university or institution other than Macquarie University. This thesis, to the best of my knowledge and belief, contains no copy or paraphrase of work published by another person, except where duly acknowledged in the text.

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TABLE OF ABBREVIATIONS

AB	Appellate Body
AD	Anti Dumping
ACWL	Advisory Centre on the WTO Law
ATC	Agreement on Textiles and Clothing
CVD	Countervailing Duties
EC	European Community
ECJ	European Court of Justice
EU	European Union
DSB	Dispute Settlement Body
DSU	Dispute Settlement Understanding
GATT	General Agreement on tariffs and Trade
GATS	General Agreement on Trade in Services
GNI	Gross National Income
GSP	Generalised System of Preferences
ICITO	Interim Commission for the ITO
ICJ	International Court of Justice
IMF	International Monetary Fund
ITO	International Trade Organisation
LDC	Least-Developed Country
MFN	Most-Favoured Nation
NGOs	Non-Governmental Organisations
PPA	Protocol of Provisional Application
S & D	Special and Differential
SCM	Subsidies and Countervailing Measures
TMB	Textiles Monitoring Body
TRIMS	Trade-Related Investment Measures

TRIPS	Trade-Related Aspects of Intellectual Property Rights
UR	Uruguay Round
US	United States
WB	World Bank
WTO	World Trade Organisation