Dispute Settlement in WTO

What is the issue?

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- The World Trade Organisation is now amidst a crisis for ensuring a legitimate dispute settlement mechanism.
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- The changes in the global trade regime and the multilateral institutions necessitate a greater role for the developing world.
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Why a trade organisation?

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- The new financial trade order with the coming of Bretton Woods institutions (World Bank and IMF) demanded a trade organisation at the international level.
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- It became necessary for the regulation of the international monetary system.
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- It was also needed to establish multilateral rules for the settlement of trade disputes.
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- Adherence to the rules was expected to serve as an important domestic incentive for governments.
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- It would allow them to resist protectionist demands and provide for greater legal certainty.
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- The World Trade Organisation (WTO) was created primarily to address these demands.
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How has the US's role been?

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- The US's push for the creation of WTO was mainly to pursue its own commercial interests.
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- The U.S. has never truly embraced the idea of a multilateral system in which its leadership could be contested.
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- Evidently the US is isolating itself from NAFTA, TPP, NATO and UNESCO in the recent times.
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- In the trade negotiations too, the U.S. put forward excessive demands that countries are unprepared to meet.
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- So the current crisis with the WTO dispute settlement system largely follows this unequal power formula.
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What is the crisis with WTO?

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- The nature of the trade disputes is now increasingly getting hypertechnical.
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- Despite this, the WTO currently faces a trade dispute settlement crisis.
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- The U.S. has systematically blocked the appointment of new Appellate Body members (judges).
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- This has impeded the work of the WTO appeal mechanism.
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- It is under great stress with only four working members out of seven normally serving office.
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- If no appointment is made, the mechanism would be destroyed by December 2019.
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- It would be left with only one remaining member to tackle a massive number of disputes.
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- But the Appellate Body requires a core of three members to decide a dispute.
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What are the other concerns?

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- It is to be noted that the WTO dispute settlement mechanism is not a world trade court.
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- So logically, the process remains political and diplomatic.
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- WTO members are thus concerned over the politicisation of the Appellate Body appointment and reappointment process.
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- There is also a concern with the quasi-attribution of permanent Appellate Body seats to the U.S. and the European Union (EU).
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- Besides, there is concern over the possibility of China finding its way to have a permanent seat.
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- **Cases** - Some Appellate Body members continue to hear cases which have been assigned to them during their tenure.
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- The U.S. has persistently attacked this practice.
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- However, the blame lies on the U.S. itself, for delay in filling up of vacancies and reappointment of members.
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- This is indicative of the fact that the US is deliberately pushing the WTO legal mechanism for deterioration.
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How is China's prospect?

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- Despite limitations ensured by US and EU, China has largely benefited from the rules-based WTO system.
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- It might well be the new WTO leader in the coming future.
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- China's growing assertiveness, in fact, may be the reason for the U.S.’s hard measures.
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- Its emerging power and the impact of its commercial domination on other

economies are evident.
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- But how far will China's legitimacy be, among other trading members, remains largely uncertain.
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What is the way forward?

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- The world has changed and multilateral institutions now have to embed these changes.
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- The current WTO crisis could be a battle to retain control over a Western-centric organisation.
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- It is high time for emerging economies and the developing world to have a greater say.
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- They should establish their role in shaping the much needed multilateralism and its institutions.
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Source: The Hindu

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Quick Fact

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WTO Appellate Body

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- The Appellate Body of the WTO was established in 1995 with its seat in

Geneva, Switzerland.
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- It is a standing body of seven persons.
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- It hears appeals from reports issued by panels in disputes brought by WTO Members.
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- The Appellate Body can uphold, modify or reverse the legal findings and conclusions of a panel.
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- The Appellate Body Reports, once adopted by the Dispute Settlement Body (DSB), must be accepted by the parties to the dispute.
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