# Unprecedented WTO Dispute Settlement method

## Why in news?

The U.S and India decided to end their six long-standing trade disputes at the World Trade Organization (WTO) through deals, a move which is unprecedented.

## What is World Trade Organisation (WTO)?

- The World Trade Organization (WTO) is the only international organization that deals with the rules of trade between countries.
- **Establishment -** It was created in 1995 superseding the 1947 General Agreement on Tariffs and Trade (GATT).
- **Members -** The WTO is run by its 164 members representing 98% of world trade.
- **Decision making -** All decisions are taken through consensus and any member can exercise a veto.

## What is the issue with WTO's dispute settlement system?

- WTO's dispute settlement system (DSS) is called its ***'crown jewel'***.
- The dispute settlement system (DSS) is a two-tiered system where the appellate body is the second tier.
- The appellate body hears appeals from WTO panels.
- The appellate body, from 1995-2019, has upheld the international rule of law by holding powerful countries accountable for international law breaches.
- **Issue -** The WTO Appellate Body has been redundant since 2019.
- There is a continued impasse in the appointment of 'judges' to the appellate body.
- Disputes filed into the 'void' will not be considered for adoption leaving the appealed cases unresolved.
- In June 2022, at the Geneva ministerial conference, the members signed a deal on resurrecting the WTO's dispute settlement system (DSS) by 2024.

## What are the cases settled between India and US?

- The WTO member-countries can adopt a statement that the appellate body rulings do not create precedents.
- India and U.S. have reached a deal on six separate disputes.
    1. Three cases settled as part of the deal are before the defunct Appellate Body.
    2. The other three could have potentially been 'appealed into the void'.
- Settling disputes in all six cases shows a pragmatic approach on the part of two strong trading partners.
- Amending domestic laws to effect compliance with international treaty obligations is a matter of great political sensitivity, especially in the U.S.
- Both U.S and India have accepted each other's domestic challenges in dispute

compliance and realised the importance of burying differences.

- **2019 compalint -** India challenged against the controversial tariffs imposed under the Section 232 of the U.S. Trade Expansion Act, 1962.
- The U.S. had imposed an additional duty of 25% on steel and 10% on aluminium, triggering a series of WTO challenges and unilateral trade responses.
- India considered these as safeguard measures and imposed retaliatory measures on 28 U.S products which the U.S. considered excessive.
- The U.S. will receive and consider requests for exclusions from Section 232 measures with approval rates of 70% for steel products and 80% for aluminium products from India.
- In return, India would remove the retaliatory additional duties on certain U.S. agricultural imports.
- India is only removing the retaliatory duties on the 8 products for which 'most favoured nation' (MFN) rate is applied.

*According to **Article 3.6** of the Understanding on Rules and Procedures Governing the Settlement of Disputes of WTO, the parties can reach a mutually agreed solution to the matter raised in the dispute.*

## What are the other cases solved?

- **India's National Solar Mission -** A challenge of the domestic content requirements under India's National Solar Mission was also resolved.
- Disagreements persisted regarding India's compliance with the WTO treaty obligations, with the U.S. seeking authorisation from the WTO's Dispute Settlement Body for trade retaliation.

- **Special Economic Zone (SEZ) -** Certain corporate tax deductions provided under the SEZ scheme faced an uncertain future.
- India resisted to appeal to the Appellate body and had voluntarily removed some controversial schemes.

- India also initiated a comprehensive process to reform its SEZ law.
- **India's contest -** India challenged certain sub-federal programmes implemented in the U.S. in the renewable energy sector and won the case.

## What lies ahead?

- **Indo-U.S. -** The decision to end these disputes seeks to script a new chapter in India-U.S. trade relations.
- India-U.S. trade relations are 'scaling new heights' and the disputes deal could 'deepen greater economic engagements'.
- **Sets precedence -** The dispute deal also sets a template for other WTO members to emulate.
- **Fills the void -** The void created by the appellate body can be filled through such mutual agreements between the contenders.

- **De-judicialisation -** This may also add to the larger plan of the U.S to de-judicialisation multilateral organisations.

**References**


1. The Hindu - Restoring the World Trade Organization’s crown jewel
2. The Hindu - Dispute settlements that have no parallel
3. TOI - India, US mutually resolve all six trade disputes at WTO


