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WTO Dispute Settlement Crisis and Its Impact on the US–China Trade Conflict (2019–2025): A Public International Law Perspective

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ABSTRACT

The systemic crisis in the multilateral trading system has caused by the paralysis of the World Trade Organization (WTO) Appellate Body since 2019. This paper reviews the impact of the disintegration of the WTO dispute settlement mechanism on the United States-China trade conflict on the period between 2019 and 2025. The research is conducted using a doctrinal and qualitative research design to examine the WTO agreements, the jurisprudence of dispute settlement and significant disputes such as DS543: United States - Tariff Measures on Certain Goods from China. The results indicate that the lack of a working appellate system weakened adherence to WTO regulations, facilitated the appeal into the void, and promoted unilateral trade policies. The trade war between the US and China escalated due to tariffs, retaliation, and the incomplete effectiveness of the Phase One Agreement. The research concludes that the WTO dispute settlement system is necessary to be restored to maintain multilateral trade governance.

Keywords: The World Trade Organization (WTO), Dispute Settlement Understanding (DSU), Appellate Body Paralysis, U.S.-China trade conflict, Phase One Agreement, Multilateralism, Compliance issues.

INTRODUCTION

The World Trade Organization (WTO) has been described as the cornerstone of multilateral trade regime and its dispute settlement system has been heralded as

the jewel crown of international economic law.¹ A legally binding dispute settlement system called the Dispute Settlement Understanding (DSU) is the rule of thumb settlement of the complex trade disputes, since it was announced in 1995, and guarantees uniformity and equity in international trade.² This system worked in a span of more than 20 years that provided both the developed and the developing countries with the right to protect their trade interests as well as enhanced more confidence to the international law. According to the academicians like William J. Davey (2005), the first years of the DSU were spectacular in the compliance and enforcement mechanism that helped in stabilizing the world trade.³ These achievements were not discouraged by counterarguments. The civil society organizations argued that the WTO rulings hardly considered the non-trade factors such as environmental protection and human rights. The political commentators of the United States questioned the authority of the non-elected officials at Geneva to make worldwide decisions on the issues which were deemed as national sovereignty. These contradictions promised larger contradictions between trade liberalization and broader social agenda. In April 2019, the United States vetoed a confirmation of the new members of the Appellate Body, which effectively stopped the process of appeal.⁴ The effective power of panel resolutions without an appellate review was lost, and the confidence of the system as a whole was compromised by not resolving any dispute. This stalemate was also being accompanied by mounting tension in the U.S.-China trade war where managed trade agreements, national security waivers, and unilateral tariffs were putting into perspective the concept of multilateralism. Joost Pauwelyn (2019) referred to this development as an appeal into the void and its risks are emphasized by the fact that it makes us think of the time before the World Trade Organization. This case of institutional failure is best illustrated by the 2019-2025 trade war between the United States and China. The limitations of the rules-based dispute resolution in which the largest powers engage in actions outside the multilateral frameworks were brought to light by the introduction of tariffs, retaliatory acts and the troublesome Phase One Agreement. Other scholars such as Kristen Hopewell (2025) opine that the failure by the Appellate Body to perform was an incentive towards defection, lax performance, and delegitimization of the credibility of the WTO. The fact that the system had a small membership highlighted the collapse of the system even after Multi-Party Interim Appeal Arbitration Arrangement (MPIA) which was a temporal solution to the issue.⁵ In order to determine the deficiency of the public international law to address a crisis of major powers, the article will examine how WTO dispute settlement crisis made

¹ Matsushita, M., Schoenbaum, T. J., Mavroidis, P. C., & Hahn, M. (2015). *The World Trade Organization: law, practice, and policy*. Oxford university press.

² zhe Yuan, H. (2026). WTO DISPUTE SETTLEMENT UNDER STRESS: ANALYZING THE US-CHINA TARIFF WARS (2018–2024). *Veredas do Direito*, 23(4), e234797-e234797.

³ Davey, W. J. (2005). The WTO dispute settlement system: the first ten years. *Journal of International Economic Law*, 8(1), 17-50.

⁴ Lehne, J. (2019). *Crisis at the WTO: is the blocking of appointments to the WTO Appellate Body by the United States legally justified?* (p. 172). Carl Grossmann Verlag.

⁵ Plurilaterals, W. T. O. (2025). Multi-Party Interim Appeal Arbitration Arrangement (MPIA).

the trade dispute between the United States and China in the period between 2019 and 2025 difficult. This study has the following research question: What does the paralysis of the Appellate Body reveal about the limitations of the rules-based dispute resolution in the case of international law, and why has it escalated trade dispute between the United States and China? Theoretically, the direct negative impact of the paralysis of the Appellate Body on the enforcement was experienced, the promotion of unilateralism, and the imbalance between the trade relations in the rule of law and the power-based relations. The paper combines the WTO agreements, case law (e.g. DS543: U.S. Tariffs on Chinese Goods),⁶ and academic reasoning in a qualitative and doctrinal analysis of the systemic effects of the crisis. It is important as the study addresses two research voids i.e. literature on U.S.-China trade war and literature on WTO dispute settlement system. The observation that the increase of bilateral conflict is directly associated with the WTO institutional paralysis has received little research even though the two concerns have been investigated independently. It is the knowledge gap that the paper fills and can contribute to our understanding of how the weakening of the multilateral institutions affects the worldwide trade governance. When the paper arrives at the point, it poses an argument that it would be necessary to restore the Appellate Body and the international trade law will only be saved through this case of multilateralism. With unilateralism and dividing, the WTO would end up being relegated to the sidelines unless it is reformed and this would have a severe implication to the future of the global economic order.

LITERATURE REVIEW

The system of WTO dispute settlement has been considered as one of the most effective institutional instruments on the international economic law. Initial literature put more stress on its usefulness in ensuring compliance and legal predictability in international trade regulation. Davey (2005) states that the initial ten years of the WTO dispute settlement system has proven to be very high compliance and has helped in the stabilization of international trade relations.

Rather current scholarship has pinpointed increasing tensions within the system. According to Pauwelyn (2019), the WTO dispute settlement mechanism encountered a growing or mounting political opposition, especially on the part of the United States, which claimed that the Appellate Body had usurped its judicial authority. Miranda (2023) goes on to propose the same that the Appellate Body has been a catalyst to its own crisis due to the broad interpretations of the WTO agreements that most states believed was a judicial overstep.⁷

Structural economic rivalry between the two giant economies in the world is also brought out in the literature on the US-China trade war. It was a case of the United States imposing tariffs on Chinese imports under Section 301 of the Trade

⁶ Zeyu, D. (2021). Trump's Trade Policies towards China and Their Impacts on the Multilateral Trading System. *J. WTO & China*, 11, 98.

⁷ Pauwelyn, J. (2019). WTO dispute settlement post 2019: what to expect?. *Journal of International Economic Law*, 22(3), 297-321.

Act of 1974 following an inquiry into the Chinese policies on the protection of intellectual property, transfer of technology, and industrial subsidies. These tariffs went as much as 25 percent on tens of billions of dollars' worth of Chinese imports.

China retaliated with counter-tariffs and appealed in the WTO, the case DS543: United States -Tariff Measures on Certain Goods from China. The argument by scholars is that these disagreements explain the tension that exists between unilateral economic policies and multilateral legal commitments.

The wider economic effects of the trade war are also highlighted in recent research work. Protectionist tariffs, according to empirical studies, can be effective in stimulating some local economic activity, but a retaliation by other trading partners tends to counteract these advantages and generates more overall economic inefficiencies.

Changes to the global supply chains other scholars note as a result of the trade war include structural changes. It has been found that increased tariffs stimulated companies to move some of their production networks to Southeast Asia, which is evidence of how geopolitical trade conflict determines the economic geography of the globe.

Although there is a lot of literature on the WTO crisis and the US-China trade war, there is still a scarcity of literature examining how the two phenomena interact.⁸ This paper fills this gap by explaining how the WTO dispute settlement system paralyzed aggravated bilateral economic competition between China and the United States.

Theoretical Framework: Structural Realism in International Trade Governance

Structural Realism and the Limits of International Institutions

Most famously represented by Kenneth Waltz, structural realism (or neorealism) describes international politics in terms of international system structure, as opposed to the domestic attributes of states. The international system can be described as anarchic, in that there is no central power over sovereign states. In this type of system, states are the main players and they all eventually enjoy national interests, security and comparative economic superiority.⁹

Structural realists would argue that international organizations like WTO lack an autonomous mechanism to enforce their state conformity. Rather, institutions serve mainly as fora whereby states are coordinating policies where it is in their interests to do so. The institutions can help in the coordination process by lowering uncertainty, information and establishment of procedural structures though they cannot counter will of powerful states.

The WTO dispute settlement mechanism was commonly known as a unique model of legalized international governance due to the fact that it had binding adjudication and enforcement facilities. Structural realism, however, is more likely

⁸ zhe Yuan, H. (2026). WTO DISPUTE SETTLEMENT UNDER STRESS: ANALYZING THE US-CHINA TARIFF WARS (2018–2024). *Veredas do Direito*, 23(4), e234797-e234797.

⁹ Craig, C. (2026). *A Realism for the twenty-first century? Just maybe: How to survive a hostile world: Power, politics, and the case for Realism*, by Patrick Porter, Palo Alto, Stanford University Press, 2025, ix, 192 pp.,£ 17.99 (paperback), ISBN 9781503644069.

to predict that such mechanisms of law will be subject to a renewed dependence on the support of the major powers. Institutional rules may be undermined or avoided by the powerful states when they are against their strategic or economic interests.

This structural limitation is manifested in the Appellate Body crisis. The impossibility of the appointment of new judges by the United States shows that the effectiveness of the institutions is ultimately dependent on political approvals of the key players in the international system.

Structural Power and the Political Economy of Trade Disputes

The structural realism also emphasizes the effects of structural power in the forming of international economic relations. In international trade, giant economies have excessive power in the work of international institutions. As a major designer of the economic order, established after the year 1945, the United States has traditionally assumed the lead in global trade rule and institution.

But the emergence of China as a new economic power has resulted in change to power distribution in the international trading system. This structural change is manifested in the US–China trade conflict. The growth in the economic influence of China also caused a rise in trade tensions due to the matters of intellectual property rights, industrial subsidies, technology transfer policies or even access to markets.

It is this structural transition that happened at this point in time and led to the paralysis of WTO dispute settlement system. Structural realism can thus recommend the crisis as an issue that cannot be inherently interpreted as a legal issue about institutional procedures but relates more to underlying geopolitical tensions between the key economic powers in the world.¹⁰

Application of Structural Realism to the WTO Crisis

The use of structural realism to WTO dispute settlement crisis can facilitate the explanation of how trade governance has shifted away to a rules-based system into a power-based bargaining system.

The WTO dispute settlement system, before 2019, was a quasi-judicial system that was able to come up with binding settlements. The Appellate Body gave definitive meanings to the WTO law and helped in the creation of a consistent body of international trade adjudication.

This mechanism of enforcement was eliminated by the paralysis of the Appellate Body. Consequently, states were empowered to thwart the execution of panel decisions by making appeals that were incapable of hearing. Such a loophole in the procedure compromised the credibility of WTO adjudication and diluted the compliance incentives.

In a structural realist perspective, this result depicts the constraints of the legal institutionalism. Institutional rules will not be effective to bind the powerful states when the process of enforcement requires the cooperation of the powerful states. The US-China trade war shows that the system can quickly go back to power-based negotiations in case institutional enforcement mechanisms fail.

¹⁰ Cao, F. (2026). Selective Coupling and Structural Conflict: China's WTO Accession and the Crisis of the Global Trade Order. *Available at SSRN 6148867*.

METHODOLOGY

The current study utilizes a qualitative and doctrinal research design to explore how the WTO dispute settlement crisis is associated with the intensification of the US-China trade war between 2019 and 2025. The doctrinal approach is especially suitable in studies in the field of international law, which pertains to the state, as it is possible to conduct a systematic study of the texts of laws, the provisions of treaties, and court rulings.¹¹

WTO agreements, dispute settlement reports and institutional official documents are the main sources of this research. Special attention is given to the Dispute Settlement Understanding (DSU) and case DS543: United States - Tariff Measures on certain Goods of China where China appealed against the United States tariffs provided by Section 301 of the Trade Act. China claimed such tariffs contravened commitments of the General Agreement on Tariffs and Trade (GATT) such as the most-favored-nation and tariff binding commitments.

The study uses secondary academic sources and policy analysis of the international law and international political economy literature besides legal sources. These sources offer understanding of institutional crisis of the WTO dispute settlement system, political reasons of the blockade by the Appellate Body and the economic impact of the US-China trade war.

Qualitative contextual analysis is also used in the research to explain the economic and geopolitical trend within the trade conflict. These involve the analysis of tariff increases, retaliation and bilateral trade agreements like the Phase One Agreement (2020). According to empirical research, the United States levied up to 25 percent tariffs on most Chinese imported goods, which led to a reactionary tariff followed by China and had an actual economic welfare cost to both countries.

It is decided to use the period of 2019-2025 since it encompasses three essential developments:

1. The WTO Appellate Body was paralyzed in December 2019.
2. The height of the US-China trade war and the next phase one agreement (2020).
3. The further increase in tariffs and strategic economic competition up to the year (2025).

DISCUSSION AND FINDINGS

Institutional Breakdown of the WTO Appellate Body

One of the biggest institutional crises of the present-day international economic law is the paralysis of the WTO Appellate Body. Its creation was done in 1995 when the Appellate Body was created as a permanent institution that delivered a review of the decisions of panels and provided a fair interpretation of the WTO agreements.¹²

¹¹ Vranken, J. B. (2010). Methodology of legal doctrinal research. In *Methodologies of legal research. Which kind of method for what kind of discipline* (pp. 111-121). Hart Publishing.

¹² Pan, K. (2025). Breaking the impasse of appointing members of the WTO Appellate Body: A perspective from international institutional law. *World Trade Review*, 24(3), 404-422.

But since 2017, when the United States vetoed the appointment of new members, the number of judges has since dropped to below the number needed to hear appeals. The appellate system would have then become virtually useless. This move had broken the two-tier adjudication system that had been regarded by the WTO to be the crown jewel of the dispute settlement mechanism.

Emergence of the “Appeal into the Void”

Among the biggest procedural impacts of the Appellate Body crisis, the concept of the phenomenon called an appeal into the void appeared. Since WTO rules permit the parties to appeal the decisions of the panel to avoid their binding, states might avoid them by appealing to the non-functional Appellate Body.¹³

Given that the Appellate Body stopped operations in December 2019, some cases have been made in the intervening period between the cessation of its operations and the panel reports being made final.

This was a major weakness of the enforcement powers of WTO dispute settlement and a source of lawlessness in the world trading system.

Section 301 Tariffs and the Intensification of Trade Rivalry

The trade war between the US and China was increasing at the same time as the institutional crisis. Based on claims of intellectual property theft and industrial policies, the United States issued broad tariffs on imports made by China starting in 2018 under Section 301 of the Trade Act of 1974.

Such tariffs ultimately took effect to about \$370 billion of Chinese imported goods with a rate of 25 percent on most of the goods.

In response, China retaliated with tariffs on American products, and a massive bilateral trade war arose.¹⁴

WTO Litigation: The DS543 Case

The WTO dispute settlement system case DS543: United States -Tariff Measures on Certain Goods from China presented China with the opportunity to challenge the US tariffs. China made the claim that the tariffs were contrary to the WTO commitments since they were above the bound tariff rates of the United States and were discriminatory against the Chinese products.

In 2020 a WTO panel found that the US tariffs were not consistent with the commitments of WTO. Nonetheless, the decision was not made legally binding because the United States went to the non-functioning Appellate Body to appeal the ruling.¹⁵

This conflict explains how institutional inertia empowered the leading countries to eschew multilateral trade regulations.

Retaliatory Tariffs and Bilateral Escalation

¹³ Hopewell, K. (2025). Unravelling of the trade legal order: Enforcement, defection and the crisis of the WTO dispute settlement system. *International Affairs*, 101(3), 1103-1117.

¹⁴ Ossa, R., & Redding, S. J. (2026). *The economics of tariffs* (No. w34915). National Bureau of Economic Research.

¹⁵ Wang, T. (2025). Rebuilding the Cradle of Trade Justice: Institutional Reforms for the WTO Appellate Body Crisis. *Lecture Notes in Education Psychology and Public Media*, 107, 39-42.

China also retaliated US tariffs with its counter trade measures. The countermeasures focused on the agricultural exports, industrial goods, and energy products of the Americans.

This tit-for-tat increase in the tariffs turned what initially was a trade policy conflict into a larger geopolitical economic conflict between the two biggest economies in the world.

This competition was further enhanced by the lack of a viable dispute settlement mechanism that left an institutional avenue of settling the dispute.

Phase One Agreement and Managed Trade

The United States and China have made a bid to ease trade tensions by signing the Phase one trade agreement in January 2020. The agreement was such that China had to buy more US goods and services to the tune of about \$200 billion in a period of two years.¹⁶

Empirical studies however indicate that China found it difficult to fulfill such purchase commitments and much of the structural trade matters including the industrial subsidies and technological policy remained unaddressed.

This was not so successful in the Phase One Agreement that explains the challenge of substituting multilateral dispute settlement with bilateral managed trade arrangements.

Economic Consequences of the Tariff War

According to economic research, there was a quantifiable loss of welfare to both China and the US as a result of the US-China trade war. A single quantitative study has estimated that tariff escalation cost China and the United States about 1.7 percent and 0.2 percent welfare respectively.

Other reports have shown more global economic impacts such as supply chain breakdowns and drops in production.

Supply Chain Reconfiguration and Trade Diversion

The trade dispute also brought about structural global supply chains changes. Companies have started moving out of China to other nations in a bid to evade duties.

Studies indicate that the US importers started sourcing more products in their needs, to countries like Vietnam, Mexico and Taiwan, which is an indication that trade diversion transformed the world trade patterns.

These processes explain how geopolitical trade conflicts shape the geography of production networks in the world.

Escalation of Tariffs in the Mid-2020s

The trade friction between the United States and China persisted even in the mid-2020s. According to some studies, the tariffs levied on the Chinese imports were also increased further with suggestions to increase tariff rating by a large margin in response to the unfair trade practices.

¹⁶ Funke, M., & Wende, A. (2023). The US–China Phase One trade deal: An economic analysis of the managed trade agreement. *Canadian Journal of Economics/Revue canadienne d'économique*, 56(2), 758-786.

This kind of development shows that the economic tension between the two power was still unrestricted even after previous trade talks.

Implications for Multilateral Trade Governance

This research indicates that WTO dispute settlement crisis is a fundamental juncture in the world of trade governance. Failure of WTO to take action against big powers nullifies faith on the rules-based trading system.

In the event the dispute settlement system is unable to move forward, the international trading system will slowly be transformed into a fragmented system where bilateral trade agreements exist and unilateral economic policies are implemented.

Recommendations

Restoration of the WTO Appellate Body

The reforming of the Appellate Body by appointing new members is the most urgent reform. A working appellate process is needed to ensure the validity and enforceability of WTO dispute settlement.

Reform of the Dispute Settlement Understanding (DSU)

Reforms ought to be made to shed light on what can be appellate, resolve the issue of judicial authoritarianism, and to enhance efficiency of the dispute settlement system.

Strengthening Compliance and Enforcement Mechanisms

WTO needs to come up with more effective compliance strategies such as better monitoring processes and stricter rules on retaliation against non-compliance with ruling of the dispute settlement.

Addressing Emerging Trade Issues

The new kinds of economic challenges including the digital trade, industrial subsidies, and competition of technology that are becoming a significant part of international trade disputes should be covered in WTO reforms in the future.

Reinforcing Multilateral Cooperation

Lastly, the leading trading countries, such as US and China, need to rejoin multilateral trade governance. The rules-based trading system is at risk of being further fragmented unless the leading economies grow closer.

CONCLUSION

As shown in this paper, the crisis of the WTO dispute settlement system and the intensification of the US-China trade rivalry are two closely intertwined phenomena in the modern global trade governance. The institutional enforcement mechanism that used to limit unilateral trade policies with the Appellate Body being in the driving seat was eliminated through the paralysis of the latter. Consequently, the use of tariffs, retaliation and bilateral negotiations became the main instruments of major powers instead of multilateral legal procedures.

The dispute analysis of DS543 shows how institutional paralysis allowed the powerful states to bypass WTO decisions by the appeal into the void. Simultaneously, the empirical data of the tariff escalation, supply chain restructuring, and losses of

the welfare proves that the trade war not only brought about considerable economic effects not only to the United States and China but to the world as a whole.

On the theoretical level, these developments substantiate the structural realist position that international institutions are still reliant on the collaboration of the dominant states. When the great powers find that institutional rules are limiting their strategic interests, they can undermine or circumvent such institutions.

As a result, the credibility and effectiveness of the WTO dispute settlement mechanism can be restored to ensure that the multilateral trading system is stable in the future. In the absence of a substantive institutional reform and a renewed commitment by the key trading states, the rules-based international trading system will be substituted with a competent system where the geopolitical economies are dominated by geopolitical economic rivalry.

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