

WTO爭端解決與制度改革議 題之最新進展

黃珏

Oxford Brookes University

leading to MC13

- MC12 Outcome Document: commitment to having a fully and well-functioning dispute settlement system in place by 2024
- informal negotiation process
 - no consensus to formalise the informal process
 - a draft Ministerial Decision on Dispute Settlement Reform circulated on 16 February 2024

draft Ministerial Decision on Dispute Settlement Reform

- 11 Titles
 - Title I: Alternative Dispute Resolution Procedures and Arbitration
 - Title II: Panel Proceedings
 - Title IV: Compliance
 - Title V: Guidelines for Adjudicators
 - Title VI: Procedures to Discuss Legal Interpretations
 - Title VII: Secretariat Support
 - Title VIII: Transparency
 - Title IX: Accessibility with Respect to Technical Assistance, Capacity Building and Legal Advice
 - Title X: Accountability Mechanism

draft Ministerial Decision on Dispute Settlement Reform

- No text on Appeal or Review Mechanism (Title III)
- expanding and normalising alternative dispute resolution (ADR)
- an expanded role and discretion for adjudicators
- 2 new mechanisms
 - to review of the legal interpretations produced in dispute settlement decisions
 - to review the operation of the dispute settlement system, with a focus on the implementation of the proposed reforms

ADR

- “at any time”
- no transparency: procedure and information to be kept confidential
- possible to involve stakeholders with the parties’ consent

expanded role and discretion for adjudicators

e.g.

- new categorisation of cases: standard, complex and exceptionally complex for the purpose to set word and time limits
- focus on what is necessary to resolve the dispute

procedures to discuss legal interpretation

- to be discussed in relevant WTO bodies
- *Advisory Working Group*: ‘a mechanism for WTO Members to discuss, build consensus and provide guidance on legal interpretations developed by adjudicators’
- no retroactive effect on the disputes, but to be included in the WTO Analytical Index

accountability mechanism

- first meeting to be in October 2026; then October of every second year thereafter
- review the operation of the dispute settlement system with a focus on the *listed* reforms