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Settlement of dumping cases within the framework of the World Trade Organization

Dr. Siham Abbassi [1], **Dr. Hamidani Salim** [2], and **Dr. Meguellati Mouna** [3]

[1] University Center of Barika (Algeria). Email: siham.abbassi@cu-barika.dz
[2] University of May 8, 1945 Guelma, Laboratory of Environmental Legal Studies (Algeria). Email: hamidani.salim@univ-guelma.dz
[3] University of May 8, 1945 Guelma, Laboratory of Environmental Legal Studies, (Algeria). Email: meguellati.mouna@univ-guelma.dz

Abstract---The World Trade Organization is an international trade organization that regulates all areas of global trade, including the settlement of trade disputes arising between its members. Among these disputes is anti-dumping disputes, which are among the most prominent trade disputes arising between members. These disputes involve the dumping of a particular commodity in a member's market at a price lower than its cost or less than its value. In this area, the WTO specializes in resolving anti-dumping disputes by following a set of special procedures that are appropriate to the nature of this type of dispute when it comes to international competition with developing countries, given the specific nature of these countries' trade markets.

Keywords---International trade, anti-dumping issues, trade disputes, trade policy, settlement.

Introduction

Numerous financial and trade institutions, including the World Trade Organization (WTO), have been established to establish and maintain global trade relations based on fair and binding legal foundations and rules that take into account the circumstances of developing countries. This is intended to overcome the various financial, particularly commercial, problems facing countries worldwide since the outbreak of World War II.

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As an international trade body, the WTO's mandate and role extend beyond regulating global trade or supervising trade and services agreements. Its mandate also extends to resolving commercial disputes that may arise between its members.

Considering that commercial relations are often associated with legal violations, which generate profits and financial returns for one party and cause financial damage and losses for the other, the WTO, in order to overcome this illegal and unfair situation, took the initiative to create a set of rules governing the procedures for settling commercial disputes that arise between its members. Indeed, there are many commercial violations that can occur within the framework of international trade practices. In this regard, dumping cases are among the most important disputes that the World Trade Organization (WTO) has jurisdiction over, by designating them with a set of special procedures appropriate to their nature.

Based on this, the problem that can be posed within this research is formulated within the following question: **How are dumping cases settled within the framework of the WTO?**
This problem can be answered by addressing the following topics:
First: The theoretical framework for dispute settlement within the framework of the WTO.
Second: The theoretical framework for commercial dumping.
Third: Dispute settlement mechanisms within the framework of the WTO.
Fourth: Mechanisms for settling dumping cases within the framework of the WTO.

First: The theoretical framework for settling international trade disputes:
Breach of the rules of trade agreements or breach of commitments within the framework of international trade, causing harm to one of the WTO parties, usually leads to a dispute between the two parties. This dispute is settled by following a set of rules and procedures stipulated for this purpose. On this basis, studying the settlement of international trade disputes requires us to begin by addressing the theoretical framework of this settlement, focusing on the following elements:

1 - Characteristics of the dispute settlement system within the framework of the World Trade Organization:
By examining the rules for settling commercial disputes within the framework of the World Trade Organization, or what are known as the "Understandings," we can conclude a set of characteristics that distinguish this dispute settlement system. The system for settling international trade disputes within the framework of the World Trade Organization has been characterized by its optional or diplomatic nature as a method for resolving commercial disputes that may arise between the parties to the organization. However, practical experience has resulted in the development of this system in a way that has, to some extent, predominated the judicial method as a means of settling disputes. Thus, the judicial arbitration method has dominated the optional diplomatic method in settling international trade disputes[1]
Accordingly, we can summarize the characteristics of the dispute settlement system within the framework of the World Trade Organization in the following points:

A - Adopting a diplomatic approach to dispute settlement within the framework of the World Trade Organization:
Some countries, such as the European Union and Japan, have preferred to resort to diplomatic means as a means of dispute settlement within the framework of the World Trade Organization, based on the flexibility of these methods. This is especially true since WTO disputes usually have political repercussions. Therefore, the most appropriate means of settling them is through consultation, negotiation, and diplomatic conciliation, rather than through trials and arbitration bodies. This is because the disputing parties are sovereign states, and therefore, settlement should not be imposed by

[1] Hassan Al-Badrawi, Dispute Settlement in the Framework of the World Trade Organization, WIPO Specialized National Seminar for Judges, Prosecutors, and Lawyers, World Intellectual Property Organization (WIPO) in cooperation with the Ministry of Industry and Trade, Sana'a, Yemen, July 12-13, 2004, p. 3.

applying rigid, binding rules[2] The diplomatic dispute settlement system is considered cheaper and more acceptable for long-term trade relations between parties when compared to settlement through judicial procedures[3].However, practical reality has proven that this feature of the WTO's dispute settlement system has prevented the organization from resolving all disputes brought before it in a fair, effective, and mutually satisfactory manner.[4]

Therefore, this trend in dispute settlement within the WTO has not been the predominant one, but the use of diplomatic methods of settlement has not been entirely absent. This is evident in the Memorandum of Understanding, which established the consultation method as the mechanism for settling WTO disputes. This is also embodied on the ground through the adoption of good offices, conciliation, and mediation in resolving disputes arising within the WTO.

B - Adopting the judicial method for settling disputes within the framework of the World Trade Organization:

In contrast to the European view, supported by the Japanese view regarding dispute settlement within the framework of the World Trade Organization, there is another view, that of the United States of America, supported by Canada. This view favors judicial methods for settling international trade disputes, by applying binding rules for the disputing parties regarding disputes that may arise between them within the framework of the World Trade Organization[5] . In fact, this view had a significant impact on the formulation of the dispute settlement understanding, based on the fact that judicial solutions are usually clear, given their application of binding and pre-known rules, such that solutions do not differ significantly from one case to another regarding similar disputes. This can contribute to establishing solid rules for World Trade Organization agreements and unifying the standards followed in settling commercial disputes that arise between its members, on the one hand, in addition to reaching fair solutions that eliminate any dispute that may arise due to the economic disparity between developed and developing countries, on the other hand. Furthermore, the method of judicial dispute settlement is likely to strengthen the principle of reciprocity and liberalize international trade, thus sparing countries the risk of entering into trade wars [6]

It is recognized—according to many researchers—that simply establishing rights is not sufficient if there is no system enabling the right holder to compel the violator to respect them. While this is true for all human transactions, it also applies to international trade relations. Countries vary greatly in the size of their domestic markets, enabling major countries—with large markets—to use diplomatic means as leverage to pressure their trading partners—with small markets—to accept less than the rights stipulated in the relevant international agreements. This constitutes a fundamental weakness in the dispute settlement system within the World Trade Organization.

Therefore, judicial methods must be adopted to resolve commercial disputes within the WTO[7].

The judicial approach appears to be the predominant approach to dispute settlement within the WTO, as evidenced by a review of the Memorandum of Understanding on the Rules and Procedures for Settling Disputes, upon which the Dispute Settlement Body was established.

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[2] Jalal Wafaa Mohammadeen, Settlement of International Trade Disputes in the Framework of the GATT Agreements, New University House, Alexandria, Egypt, 2006, p. 7.

[3] Peter Van den Bosch, Dispute Settlement in International Trade, United Nations Conference on Trade and Development, United Nations, New York, USA, 2003, p. 43.

[4] Ali Wajih Ali Saleh, Dispute Settlement Mechanism in the World Trade Organization, Master's Thesis in Law, Birzeit University, Palestine, 2006, p. 110.

[5] Jalal Wafaa Mohammadeen, op. cit., p. 8.

[6] Khairy Fathi Al-Basili, Settlement Disputes within the Framework of the World Trade Organization, Dar Al Nahda Al Arabiya, Cairo, Egypt, 2007, p. 272.

[7] Hassan Al Badrawi, op. cit., pp. 2-3.

C- Giving priority to the judicial aspect over the diplomatic aspect of dispute settlement within the framework of the World Trade Organization:
The final outcome of the Uruguay Round negotiations was decisive in giving a judicial and legal character to the mechanisms for settling global trade disputes, but it left room for diplomatic means of settlement.

Thus, the two previous trends—the two visions or opinions—were combined into a single conciliatory document attached to the Final Document of the Uruguay Round. This document has made significant strides toward legalizing the dispute settlement method within the framework of the World Trade Organization. However, it has also retained concrete aspects regarding diplomatic solutions, giving disputing countries great flexibility in the approach they take to resolving their disputes, without prejudice to the binding nature of decisions made in the event of consultation and resort to the judicial method of settlement. If we were to trace the stages leading to the previous document, the Final Act [8] of the Uruguay Round, we would say that from January 1948 until April 1994, when the World Trade Organization was established, the world witnessed several negotiating rounds on the liberalization of trade in goods. The Uruguay Round came to reorganize and review the contradictions and backgrounds that prevailed throughout the previous Uruguay Rounds. Several issues that had not been raised before were incorporated into this round, the most important of which was the creation of a new global trading system based on a dispute settlement mechanism that was more credible and rigorous than the one in the GATT. This was embodied in the Memorandum of Understanding on the Dispute Resolution Mechanism, which included the establishment of a specialized dispute settlement body whose primary task would be to administer the rules, procedures, and provisions for settling disputes contained in the covered agreements. This body would establish arbitration bodies, approve reports and recommendations, and authorize the suspension of concessions and other obligations concluded under comprehensive agreements[9].
• Thus, a dual system for settling commercial disputes was established within the framework of the World Trade Organization, encompassing both judicial and diplomatic approaches, with the former being predominant.

2 - The Importance of the Dispute Settlement System within the World Trade Organization:
The true value of the dispute settlement system within the framework of the World Trade Organization lies in its importance, which is demonstrated by:

A - Granting members the right to file complaints:
The dispute settlement system within the framework of the World Trade Organization grants members the right to file lawsuits regarding any of the multilateral agreements in accordance with the Agreement Establishing the World Trade Organization. If a member of the World Trade Organization suffers any harm due to a breach of commitments or a violation of trade agreements, it has the right to file a complaint with the organization, after ensuring that the dispute cannot be resolved through the following methods: consultations, good offices, and mediation[10].

B - Automation in the field of arbitration: (automaticity in the establishment and composition of arbitration panels and the implementation of arbitration awards)
The dispute settlement mechanism within the framework of the World Trade Organization is characterized by the automaticity in the establishment and composition of arbitration panels, in addition to the definition of their jurisdictions. This has made dispute settlement within the framework of the

[8] Khairi Fathi Al Basili, op. cit., pp. 270-272.
[9] Chafia Ben Issa, The Effects and Challenges of Joining the World Trade Organization on the Algerian Banking Sector, Master's Thesis in Management Sciences, Specialization in Money and Finance, University of Algiers, 2010, 2011, pp. 2-3, p. 29.
[10] Samir Muhammad Abd Al Aziz, International Trade between the GATT and the World Trade Organization, Al-Ishra'a Technical Library, Alexandria, Egypt, (undated), p. 4150.

World Trade Organization characterized by the speed with which decisions and recommendations are issued[11]. Arbitration procedures begin with an agreement, then proceed with a procedure and end with a judgment, which is the arbitration decision. The arbitrator's function is judicial in nature and subject matter, but the source of that function remains stemming from the parties' agreement to arbitration. This is because it is in the interest of global trade to freely agree to arbitration at the beginning and then convert it in its final stage to a judgment, so that the arbitration decision acquires its own binding force[12]. It does not then need a lawsuit followed by a judgment that gives it this binding force. This is because the mere desire of the parties to settle their dispute through international commercial arbitration and each party expressing their intention to exchange trust presupposes the automatic, voluntary implementation of arbitration decisions. In this case, it is not necessary to resort directly to the rulings issued by the arbitral body of the ordinary judiciary in order to issue an order for implementation. Or recognition of the arbitral award to be enforced[13]

C - Taking into account the situation of developing countries:

This importance relates only to developing countries, as the Memorandum of Understanding deemed it necessary for member states, during consultations, to pay special attention to the problems and interests of developing countries. Accordingly, the parties concerned, at all stages of dispute settlement within the framework of the World Trade Organization, where one of the parties is a least-developed country, must pay special attention to this country by exercising self-restraint when resolving the dispute. If the dispute is decided by revoking or suspending an assessment made by this country—i.e., the developing country—then the complaining party—if it is not a developing country—must exercise self-restraint when requesting compensation, seeking authorization to request concessions, or other measures. In addition, the Director-General or the Chairman of the Dispute Settlement Body, taking into account the circumstances of least-developed countries, may offer their good offices, arbitration, or mediation to assist the parties in settling the dispute before the arbitration panels are formed. The Director-General or the Chairman may consult with any source deemed appropriate by a party, at the request of a least-developed country member, in the case of dispute settlement involving that member when a satisfactory solution cannot be reached through consultations[14].

D - Providing Security in the Trade Field:

The existence of the Dispute Settlement Body within the framework of the World Trade Organization constitutes an important element in ensuring security and predictability in the international trading system, protecting the rights of members and upholding their obligations under the WTO agreements. Without security and predictability, it is impossible to establish trade or global relations that enjoy confidence, stability, and the potential for expansion and prosperity in the future[15]. This contributes to providing security. A large part of the world's commercial security.

Second: The Theoretical Framework of Commercial Dumping:

The adoption of a trade policy based on removing non-tariff barriers and reducing customs barriers, as a result of the increasing number of WTO members, has led to an increase in dumping cases, which are among the cases that have special procedures for their settlement.

On this basis, we will address the concept of dumping as one of the most important disputes settled by the WTO through the following points:

1 - Definition of Commercial Dumping:

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[11] Jalal Wafaa Muhammadin, op. cit., p. 5.

[12] Ammar Falah, The Role of Arbitration in Resolving International Commercial Disputes: A Comparative Study between Islamic Jurisprudence and Positive Law, PhD Thesis in Sharia Islamic Law, Hadj Lakhdar University, Batna, Algeria, 2014-2015, p. 40.

[13] Aliouche Qarbou Kamal, Recognition and Enforcement of Arbitral Awards and Methods of Appealing Them, National Conference on International Commercial Arbitration in Algeria "Between Consecration and Arbitration Practice," Abdelrahman Mira University, Bejaia, Algeria, June 14-15, 2006, p. 26.

[14] Jalal Wafaa Mohamedin, op. cit., p. 37.

[15] Khairi Fathi Al-Basili, op. cit., p. 257.

Dumping, in its simplest sense, refers to an illegal trade policy, which involves exporting a product at a price lower than its market price in the exporting country's domestic market, or exporting it at a price lower than its cost value. Businesses typically export their products at very low prices to gain control of foreign markets and eliminate competition[16]. Dumping refers to a country exporting a product at a price below its cost or normal value (less than its domestic selling price) or below the corresponding price of a similar product sold in the exporting country. This practice is typically used by exporting companies that sell in another country's market. Dumping is a form of price discrimination when a product is sold in the importing country's market at a price lower than its selling price in the exporting country, causing harm to similar domestic products in the importing country[17].

This is the same meaning of dumping as stated in Article 2 of the GATT 1994 Anti-Dumping Agreement, which defines dumping as: "the sale of a good in the market of another country at less than its natural or real value." The natural or real value of the capacity, according to the same article, refers to the impermissibility of selling a good in the market of the importing country at less than the price of a similar good if it is intended for consumption in the exporting country, i.e., less than its counterpart in that country.

Thus, we can say that dumping refers to the sale of goods in foreign markets at a price lower than their selling price in the domestic markets of the exporting country, at the same time and under the same production conditions as the price of the exported and domestic goods.

Dumping is based on:

- Relying on the sale of a good at a price lower than its natural or real price. The natural price of a good is the domestic price of a similar good. If it is not available in the market of the exporting country, it is compared to the price of a similar good in a third country. - Relying on the existence of harm, as in order to assert the existence of dumping, it must be proven that there is a reality or threat of harm to the domestic industry producing the commodity or similar commodities[18]

02 - Harm resulting from dumping:

Dumping aims to monopolize the domestic market, thus reducing the price of the exported commodity compared to its original price in the exporting or producing country, i.e., selling at a loss. This loss can be addressed once the domestic market is monopolized and the price is subsequently raised to make up for the lost loss [19]

Dumping weakens the ability of local producers to compete due to the low prices of imported products, which results in harm to the local product as a result of consumer demand shifting towards dumped products due to their low price. Therefore, local production declines in the face of dumped products due to the inability of local products to continue competing after the selling prices of the product became less than its production costs, which results in a reduction in the level of local production by stopping some of its production projects or renewing the size of the product in them. Here, the damage appears clearly in both cases, which results in harm to the development process as a whole, especially if we know that the exports or products of countries - especially developing ones - when exposed to dumping, it results in a major economic contraction, which is what It affects a country's share of world trade [20]

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[16] Rasha Muhammad Salih Al-Jabouri, Legal Regulation of Commercial Dumping in Light of Jordanian Legislation, Master's Thesis in Law, Middle East University, 2017, p. 13.

[17] Nagham Hussein Nima, "Dumping Policy and Means of Supporting and Protecting Local Production: Selected Applications with a Focus on Iraq," Al-Ghari Journal of Economic and Administrative Sciences, University of Kufa, Iraq, Volume 7, Issue 30, 2014, University of Kufa, p. 5.

[18] Abdul Muttalib Abdul Hamid, "GATT and the Building Blocks: The World Trade Organization from Uruguay to Seattle to Doha," University House, Alexandria, Egypt, (undated), pp. 291-293, adapted.

[19] Rasha Muhammad Salih Al-Jubouri, op. cit., p. 16.

[20] Umaima Omar Hassan Al-Toum, "Dumping and Its Impact on the Economies of Developing Countries," Al-Musari Journal, General Administration of Policies, Research, and Statistics, Central Bank of Sudan, Sudan, Issue 78, December 2015, pp. 17 ff., adapted.

Determining injury due to dumping is based on the concept of positive evidence. Therefore, its determination must include an objective investigation of:
- The volume of dumped imports and their impact on local market prices of similar goods.
- The subsequent effects on local producers of such products, i.e., whether the dumped imports have caused material injury to a local industry, threatened to cause material injury to it, or have led to a material delay in establishing such an industry.
- The volume and prices of imports not sold at dumped prices, shrinking demand, changes in consumption patterns and traditional trade methods, competition among local producers, developments in technology, export performance, and productivity of the local industry[21]. Investigating all of these elements is what leads to positive evidence of whether dumping exists.

Third: Dispute Settlement Mechanisms within the World Trade Organization:
Trade disputes arise as a result of the diversity of trade relations between WTO member states. Therefore, establishing mechanisms to resolve these disputes is essential within this organization. In fact, the settlement of trade disputes within the WTO is achieved through a set of procedures, stages, or methods, which can be addressed in the following points:

1 - Amicable Means (Consultations):
Consultations are considered the first stage of dispute settlement within the WTO. Below, we will discuss the concept and procedures of consultations:
A - The Concept of Consultations as a Dispute Settlement Mechanism within the WTO:
Statistics have shown that consultations, as the primary dispute settlement mechanism within the WTO, have contributed to the settlement of approximately 20% of disputes[22]
Therefore, we will discuss the importance and objectives of the consultation phase below:
- The Importance of the Consultations Phase in Dispute Settlement within the WTO:
The importance of the consultation phase as a mechanism To settle disputes within the framework of the World Trade Organization, based on the percentage of cases that have been settled, which was previously mentioned to have reached 20% of the total cases submitted to it, in addition to the fact that the consultation mechanism is considered one of the simplest mechanisms.
It is a method that countries resort to in order to resolve their disputes in general, including their trade disputes. Therefore, it is resorted to before resorting to any other means. Furthermore, the importance of consultations in resolving disputes within the framework of the World Trade Organization lies in its ability to reduce the pressure on the settlement teams, who avoid engaging in dispute resolution at the expense of carrying out their other duties within the World Trade Organization (WTO).[23]
- Objectives of the consultation phase:
The goal of dispute settlement within the framework of the World Trade Organization in general, including its settlement through consultations, is to reach a positive solution acceptable to both parties to the dispute and consistent with the covered agreements. That is, to find a settlement to the dispute that is consistent with the parties' obligations under the WTO Agreement (WTO).[24]

B - Conducting Consultations:
The consultation process involves a series of stages, which can be summarized as follows:
- Responding to or rejecting a request for consultation:
Article 04/02 of the Memorandum of Understanding stipulates that each member undertakes to consider sympathetically any requests submitted by another party regarding measures taken in that member's territory regarding the implementation of a covered agreement and to provide adequate opportunity for consultations.

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[21] Abdul Muttalib Abdul Hamid, op. cit., pp. 294-295.
[22] Jalal Wafaa Muhammadin, op. cit., p. 39.
[23] Khairi Fathi al-Busaili, op. cit., pp. 311-313.
[24] Ibid., p. 312.

It is customary for the invited party to respond to the request for consultations and sit at the consultation table for a session aimed at settling the dispute between it and the party that invited it for consultations. However, acceptance of the request for consultations by the invited member state is not mandatory, as it may reject the request for consultations within 10 days from the date of receipt of the request. It also has 30 days to respond to this request, after which time its action is deemed an implicit rejection[25]

- Joining a Consultation Request:

Joining a consultation request is open to Member States that are not parties to the dispute being consulted, and that have a genuine commercial interest in the dispute submitted for consultation. This is granted after such Member State notifies the consulting parties and the Settlement Body within 10 days of the circulation of the consultation request of its desire to join the consultations[26]. The State to which the consultations are addressed has full authority, sovereignty, and absolute discretion to accept or reject the request to join the consultations[27].

- Methods for Conducting Consultations:

Failure to comply with the aforementioned time limits entitles the applicant to resort to the mechanism or subsequent stage of dispute resolution (requesting the formation of a panel of arbitrators), with the possibility of requesting an extension of this period if a consultation agreement is not reached within this period. This applies to normal cases. However, in exceptional cases, consultations must be entered into within a period not exceeding 10 days from the date of receipt of the consultation request, instead of 30 days in normal cases[28]. If the request for consultations is accepted and those consultations fail to resolve the dispute within 60 days of receipt of the relevant request, it is also permissible to request the appointment of a panel of arbitrators[29]. This is the case in normal circumstances, but in exceptional cases, this period is reduced to no more than 20 days[30]. In practice, consultations take place in one of the WTO chambers in Geneva, Switzerland, and typically last two to three hours. They are conducted in English without the presence of translators or the assistance of printing presses or other modern equipment. Representatives of the governments of the states party to the dispute attend the session, in addition to representatives of the governments of the states joining the consultation[31] .Consultations are confidential and pay attention to the problems and interests of developing countries [32]

- Results of the consultations:

The consultations may result in a mutual agreement between the parties. This agreement must be consistent with the agreements covered by or included in the understanding, on the one hand, and must not prejudice the interests of any WTO member under those agreements, nor impede any WTO objective, on the other hand[33]. In the event that a mutual agreement is reached, it must be notified to the Settlement Body and the relevant councils and committees. Any WTO member may raise any matter related to this agreement in these councils and committees.[34]

Consultations may also fail to reach a settlement of the dispute within the aforementioned timeframes. In this case, the complaining party must submit a request to form an arbitration panel.[35]

We note that the parties to the dispute may, during the period specified for consultations, resort to seeking good offices, conciliation, and mediation[36].

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[25] Ibid., p. 315.
[26] Jalal Wafaa Muhammadin, op. cit., p. 40.
[27] Khairi Fathi al-Busaili, op. cit., p. 314.
[28] Samir Muhammad Abd al-Aziz, op. cit., p. 422.
[29] Khairi Fathi al-Busaili, op. cit., pp. 319-320.
[30] Samir Muhammad Abd al-Aziz, op. cit., p. 422.
[31] Jalal Wafaa Muhammadin, op. cit., pp. 45-46.
[32] Samir Muhammad Abd al-Aziz, op. cit. Previous, pp. 421-422.
[33] Fathi Khairy Al-Busaili, op. cit., pp. 323-324.
[34] Jalal Wafaa Mohamedeen, op. cit., p. 44.
[35] Samir Mohamed Abdel Aziz, op. cit., p. 421.
[36] Abdel Mutalib Abdel Hamid, op. cit., p. 233.

2 - Alternative Means:

Disputing parties within the framework of the World Trade Organization may agree to follow alternative means to resolve their dispute. There are several alternative methods or means, the forms and procedures of which are discussed below:

A - Types of Alternative Dispute Resolution within the framework of the World Trade Organization:

Medicare means, as mechanisms for settling commercial disputes within the framework of the World Trade Organization, can take the following forms:

- Good Offices:

Good offices are a method by which a person or entity mediates between the disputing parties to continue the negotiation process (consultations) that may lead to a resolution of the dispute[37]. They are efforts made by a WTO member that is not a party to the dispute, at the request of some or all of the parties to the dispute, or on its own initiative or by another third party member, with the aim of influencing the disputing parties and persuading them to reach a resolution to the dispute without interfering in the negotiations or making proposals for resolving the dispute.[38]

– Conciliation:

Conciliation is an agreement between the disputing parties to make mutual concessions to resolve the dispute between them[39]. It is a procedure undertaken by the disputing parties with the assistance of a committee or third party, who assists them impartially without imposing any binding decision or opinion, with the aim of reaching an amicable settlement of the dispute. This is because conciliation is based on the intervention of a third party in the dispute.[40]

– Mediation:

Mediation is a method of dispute resolution within the framework of the World Trade Organization, during negotiations to end the dispute[41]. Therefore, it is clear that the mediator's work is amicable and is based on bringing the viewpoints of the disputing parties closer together to encourage them to negotiate, or working to provide the basis for resolving the dispute and resolving the disagreement between the parties. It should be noted that the solutions offered by the mediator have no binding force.[42]

B - Procedures for Initiating Dispute Resolution under the WTO Framework Using Alternative Means:

We can summarize the dispute resolution procedures under the WTO Framework using municipal means through the following points:

- Municipal means may be requested and terminated at any time. If they are terminated, the complainant may proceed to request the appointment of an arbitration panel.
- Alternative means procedures are conducted confidentially, particularly with regard to the positions of the disputing parties.
- Alternative means must be resorted to within 60 days from the date of submitting the request for consultations. The complaining party must not request the formation of an arbitration panel during the aforementioned period. However, they may request the formation of the same panel during this period, if the disputing parties acknowledge that alternative means have failed to resolve the dispute.
- Alternative means procedures may continue despite resorting to the arbitration agreement, if the disputing parties agree to this [43]

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[37] Jalal Wafaa Mohamedeen, op. cit., p. 49.
[38] Khairy Fathi Al-Busaili, op. cit., p. 329.
[39] Jalal Wafaa Mohamedeen, op. cit., p. 49.
[40] Khaled Mamdouh Ibrahim, Electronic Arbitration in International Trade Contracts, Dar Al-Fikr Al-Jami'i, Alexandria, Egypt, 1st ed., 2008, pp. 37-38.
[41] Jalal Wafaa Mohamedeen, op. cit., p. 49.
[42] Khairi Fathi Al-Basili, op. cit., p. 329.
[43] Samir Muhammad Abd Al-Aziz, op. cit., p. 423.

03 - Arbitration:

Arbitration is an exceptional method for final dispute resolution based on agreement and consent between the parties[44] .It is the method chosen by the parties to resolve disputes arising between them without resorting to the courts[45]. The following will address the establishment of the arbitration panel and the arbitration procedures, within the following two points:

A - Establishing the Arbitration Panel:

Arbitration panels are established based on a written request containing the dispute and the legal basis upon which the complaint is filed. This request is submitted to the Dispute Resolution Body, which decides to establish such a panel no later than the meeting of the body following the meeting at which the request is first submitted as an item on the body's agenda, unless the body decides by consensus not to establish the panel at that meeting.

The arbitration panel shall consist of three persons, unless the parties to the dispute agree within 10 days of the establishment of the arbitration panel that the panel shall consist of five persons. The persons selected for the arbitration panel must meet a number of conditions, the most important of which are:

- They shall not be nationals of the two disputing states unless the parties agree otherwise.
- The arbitration panel shall not exceed five persons.
- The process of selecting the arbitration panel shall be subject to full cooperation between the parties to the dispute and the Chairman of the Dispute Resolution Body.
- The arbitration panel members must be familiar with the dispute settlement system under the WTO and the agreements covered by the Dispute Settlement Understanding.
- Extensive experience in dealing with multilateral trade agreements [46]

B - Arbitration Procedures:

The arbitration panel is responsible for:

- Examining the dispute to ensure that the subject of the complaint is one of the covered agreements.
- Assisting in submitting proposals to the Dispute Settlement Body until the dispute is settled.
- Developing a proposal for resolving the dispute [47]

To fulfill these duties, the arbitration panel shall exercise its duties in one of the three official languages of the WTO (English, French, and Spanish), within a period not exceeding six months from the date of its formation in normal cases, and three months in exceptional cases [48]

The arbitration process is conducted through the following procedures:

• Organizing meetings between the parties to the dispute, providing sufficient time for the parties to submit their memoranda.

• Exchanging written memoranda at the panel meeting, and setting deadlines for submitting memoranda that the parties to the dispute must adhere to.

• Two to three weeks after the first formal meeting of the arbitration team, the requested responses are submitted by the parties to the dispute. These responses are usually placed with the secretariat, which forwards them to the arbitration team and the other party or parties to the dispute. The team then holds a meeting within one to two weeks of receiving the responses. It may request explanations for these responses. The arbitration report is then prepared by the members of the arbitration team [49]

04 – Quasi-judicial Method: (Appeal Review):

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[44] Mamdouh Tantawi, Conciliation, Arbitration, and Dispute Resolution Committees: Chambers of Commerce and Conciliation and Arbitration Centers, Mansha'at Al-Maaref, Alexandria, 1st ed., 2003, p. 21.

[45] Fawzi Muhammad Sami, International Commercial Arbitration: A Comparative Study of International Commercial Arbitration Provisions as They Appear in International and Arab Rules and Agreements, with Reference to Arbitration Provisions in Arab Legislation, Dar Al-Thaqafa, Amman, Jordan, 1st ed., 2009, p. 13.

[46] Khairi Fathi Al-Basili, op. cit., pp. 253 ff

[47] Ibid., pp. 253-268, adapted.

[48] Ibid., pp. 168-272.

[49] Ibid., pp. 290 ff., adapted.

The importance of appeal review lies in its being a mechanism that allows the parties to ensure that they have not been wronged by arbitration decisions.

The Appellate Body and the appeal procedures will be discussed below, through the following two points:

A – The Appellate Body:

The Appellate Body was established in February 1995 by the Dispute Settlement Body pursuant to Article 17/01 of the Memorandum of Understanding. The composition of the Appellate Body shall take into account the following:

- Members of the Appellate Body shall be appointed for a term of four years, renewable once. The terms of the three members appointed to the first Appellate Body shall expire within two years, and they shall be selected by lot.
- In the event of a vacancy in a member of the Appellate Body, the vacancy shall be filled by a person appointed for this purpose, provided that the term of their membership shall be for the remaining term of the vacant position.[50]

Members of the Appellate Body shall be required to:

• Be university professors, lawyers, judges, former government officials, or prominent figures in the field of international law and trade.
• Membership in the Appellate Body shall largely reflect membership in the WTO.
• Representation of developing countries in all circumstances.
• Members of the Appellate Body shall be available to serve at all times.
• Impartiality and independence: They are appointed in a personal capacity, which requires them to sever ties with their home country and resign from the positions they held at the time of their appointment to the Appellate Body [51]

B- Appeal Procedures:

Only the parties to the dispute have the right to appeal the decisions of the arbitration panel. However, third parties who have notified the Dispute Resolution Body have the right to submit written submissions and speak before the Appellate Body[52].

The review during the appeal must be limited to legal issues, not substantive ones, and without the evaluation of evidence[53].

Appeal procedures are initiated within 60 days from the date on which one of the parties to the dispute submits notification of the appeal decision. This period may be extended by no more than 90 days. Generally, the timeframe for exercising these procedures may be shortened as follows:

• Filing the appeal.
• Filing the appellants' briefs (10 days from the date of filing the appeal).
• Filing of other appeal briefs (15 days from the date of filing the appeal).
• Filing of the respondents' briefs and the briefs of participating third parties (25 days from the date of filing the appeal).
• Hearing oral arguments (30 days from the date of filing the appeal).
• Circulating the Appeals Body report (90 days from the date of filing the appeal).
• Adopting the Appeals Body report (90 to 120 days from the date of filing the appeal) [54]

The appeals procedure is confidential to non-parties to the dispute, while providing the opportunity for parties to the dispute to review the written submissions submitted to the Drainage Body. It also features a variety of submissions, including written submissions and oral pleadings [55]

The Appeals Body's recommendations include:

- Approval, modification, or reversal of the findings and conclusions reached by the arbitration team.

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[50] Jalal Wafaa Muhammadin, previous reference, p. 40.
[51] Fathi Khairy al-Basili, previous reference, pp. 218-221 / Abd al-Muttalib Abd al-Hamid, previous reference, p. 228.
[52] Jalal Wafaa Muhammadin, previous reference, p. 81.
[53] Khairy Fathi al-Basili, previous reference, pp. 229-230.
[54] The same reference, pp. 134-138.
[55] Jalal Wafaa Muhammadin, previous reference, pp. 244 ff.

- The Appeals Body lacks the authority to review the findings and conclusions.
- The Appeals Body does not have the power to add to the rights and obligations stipulated in the covered agreements[56].

Fourth: Mechanisms for Settling Dumping Cases within the World Trade Organization:
Dumping is one of the issues that has unique settlement procedures. Given the large number of dumping cases, it is necessary to address how this type of case is handled at the WTO level. This is done by addressing the conditions and procedures for settling it, and the practical examples of how the rules for settling dumping disputes within the WTO are applied, according to the following:

1 – Conditions for Settling Dumping Cases within the WTO:
The basis for the resolution of dumping cases within the WTO is based on the necessary conditions for proving dumping. The most important of these conditions are:
A – Formal Conditions for Prosecuting Dumping Cases:
The most important formal conditions necessary for the existence of dumping cases are:
- The authorities alone have the right to determine the information they deem sufficient and relevant to the investigation in question (i.e., the investigation into the existence of dumping).
- The information provided to the authorities must be in writing.
- The principle of confidentiality of information must be observed, and the member must be prepared to provide the necessary information to the member concerned for it to be made public to the other parties.
- The authorities verify the accuracy of the information provided during the investigation and the strength of the evidence upon which the case is based.
- If any member refuses to provide information requested by the authorities, the authorities will base their decision on the information they have at their disposal[57].
B - Objective Conditions for Prosecuting Dumping Cases:
The most important objective conditions for pursuing dumping cases are:
- Investigations must prove the existence of dumping. Dumping occurs if the export price of the product is less than its selling price, or the price of the similar product when exported to a third country when intended for consumption in the country of similar export, or its compound value, which is the cost of production in the country of origin plus management and sales costs[58]. The mere existence of dumping is not sufficient; the illegality of the product must also be demonstrated[59].
- The material damage to domestic products must be proven, or the threat of such damage must be established: This means that a causal relationship must be established between the dumped imports and the material damage to the domestic goods. This means that the dumped imports must be proven to have caused harm to the domestic industry by affecting the prices of similar products of the importing member.[60]

2 - Procedures for Settling Dumping Cases under the World Trade Organization:
If the above conditions are met, consultations are first held to resolve the dispute between the parties concerned. If a satisfactory solution is not reached during the consultations, the case is referred to the Dispute Resolution Body.

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[56] Khairy Fathi Al-Basili, previous reference, pp. 431-432 / Jalal Wafaa Muhammadin, previous reference, p. 73 / Samir Muhammad Abd Al-Aziz, previous reference, p. 434.
[57] Abdul Muttalib Abd Al-Hamid, previous reference, p. 299.
[58] Nagham Hussein Ne'meh, previous reference, p. 6.
[59] Madani Lajjal, Anti-dumping as a Practice Contrary to International Commercial Practices, Al-Ijtihad Journal of Legal and Economic Studies, Volume 7, Issue 1, 2018, p. 208.
[60] Nagham Hussein Ne'meh, previous reference, p. 6.

A request for anti-dumping measures requires providing evidence of the existence of dumping (fulfillment of the aforementioned formal requirements). This is followed by the application and investigation phase [61]

This means that anti-dumping measures take place after the dumping situation has been established. The following are the procedures for settling dumping cases:

- Provisional measures: These take the form of a provisional duty, preferably a temporary guarantee in the form of a cash deposit or bond equal to the amount of the provisionally determined anti-dumping duty, and not exceeding the provisionally estimated margin of dumping. This requires that the importing country initiate an investigation, conclude with a positive determination of the existence of dumping and the resulting harm to a local industry, and assess the necessity of taking these measures to prevent harm during the investigation.

Since these measures are provisional, their validity is limited to the shortest possible period. This period can reach 6 months and 9 months, respectively, if there is a duty lower than the margin of dumping sufficient to eliminate the harm[62]

- Price Undertakings: After the importing country's authorities reach a preliminary positive determination of dumping and the resulting injury, the exporting country undertakes to review prices or to suspend its exports to the affected area at the dumped prices. These undertakings are subject to the authorities' acceptance of them and expire within a maximum of five years from the date of their imposition, unless the investigating authorities deem it necessary to continue them to avoid causing injury to the domestic industry[63].

- Imposition of Anti-Dumping Duties: Anti-dumping duties are imposed when all requirements for their imposition are met. The decision as to whether the amount of anti-dumping duties imposed is the margin, the entire margin of dumping, or less is left to the authorities of the importing member[64]. In fact, GATT requires that authorities, when setting anti-dumping duties, adhere to the following:

• The purpose of imposing duties must be applicable throughout the entire country, and this must be coupled with the duty being less than the margin of dumping (the margin of dumping refers to the difference between the export price and the normal price), if this lower duty is sufficient to eliminate the injury to the domestic industry. • The duty imposed by the importing country must be in appropriate amounts in each case and on a non-discriminatory basis[65].

03 - Practical Models of Settling Dumping Cases within the Framework of the World Trade Organization:

Egypt is one of the Arab countries that have joined the World Trade Organization (WTO). It is also one of the countries that have submitted several dumping cases to the Dispute Settlement Body, along with the United Arab Emirates. Below, we will attempt to address practical models of settling dumping cases in which these two countries were parties within the framework of the WTO:

A - Egypt's Experience: (The Turkish-origin reinforcing steel case):

Egypt is one of the Arab countries that has been involved in the most dumping cases at the WTO level. Among these cases is the Turkish-origin reinforcing steel case, which we will summarize as follows:

- The parties involved in this case were: (Alexandria National Iron and Steel Company - El Ezz Steel Rebar Manufacturing Company, plaintiffs from Egypt) and (Habas Company - Devo Company - Kogelo Chocolate Company - Ikdas Company - Izmir Company - Akıncılar Company - ..... from Turkey)[66].

The imported products were: reinforcing steel, specifically:

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[61] Madani Lajjal, previous reference, p. 212.

[62] Nagham Hussein Ne'meh, op. cit., p. 10.

[63] Mona Ta'ima Al-Jarf, "Dumping in the Framework of the World Trade Organization: Concept, Determinants, and Impacts," Conference on the Legal and Economic Aspects of the World Trade Agreement, Dubai Chamber of Commerce and Industry, Dubai, United Arab Emirates, 2014, p. 1388.

[64] Abdul Mutalib Abdul Hamid, op. cit., pp. 303-304.

[65] Na'am Hussein Ne'meh, op. cit., pp. 10-11.

[66] Abdul Mutalib Abdul Hamid, op. cit., p. 330.

Iron and non-alloy steel bars and rods used for construction purposes [67]

- The following procedures were followed in this case:

• Alexandria Iron and Steel Company and Ezz Steel Manufacturing Company filed a complaint against themselves and the national industry due to the material damage caused by unloaded imports of rebar of Turkish origin. The complaint was accepted and the Turkish authorities were notified.

• The investigating authorities were convinced of the existence of dumping and prepared a report, which they presented to the Advisory Committee, which also prepared a report and submitted it to the Ministry of Trade and Supply, which approved the commencement of the investigation.

• The companies identified the most significant aspects of the material damage to the local industry resulting from the Turkish rebar imports. The investigating authorities examined the transaction invoices and compared them to the local selling price in Turkey. It became clear that the export price was lower than the normal value. Accordingly, a dumping margin ranging between 22.55% and 66% was set for the defendant Turkish companies[68]

B - The UAE Experience: (Dairy Case):

- The parties involved in this case were: (Emirati Dairy Company - Plaintiff) and (Saudi Dairy Company Almarai - Defendant) [69]

- The imported products were dairy products imported from Saudi Arabia.

- The following procedures were followed in this case:

• The Emirati dairy companies submitted a memorandum to the Ministry of Finance and Industry outlining the marketing difficulties these companies face due to harmful competition from some Saudi companies.

• The UAE Ministry of Finance and Industry contacted the General Secretariat of the Cooperation Council for the Arab States of the Gulf (GCC) to intervene with the Saudi authorities, who subsequently instructed its dairy companies to adhere to actual production dates and not sell at prices lower than those sold in the Kingdom.

• As the situation continued to deteriorate due to unhealthy competition, the Ministry of Finance invited dairy companies in Dubai to address the situation. It was agreed to invite the Saudi dairy companies to a meeting at the Ministry's headquarters in Dubai to reach an agreement that would satisfy everyone and preserve consumer protection. • The meeting was held, and a memorandum of understanding was reached regarding prices to remove all forms of dumping from which the Emirati companies suffered [70].

Conclusion:

• At the end of this research, we were able to reach a number of conclusions, the most important of which are:

- The WTO dispute settlement system, as established by the Uruguay Round, is the most effective. This is based on the system's mandatory nature in implementing the international commitments and obligations of member states, which can lead to sanctions being imposed on member states that fail to respect their obligations.

- The WTO dispute settlement system has sought to prioritize the situation of developing countries, which lack the financial and human resources and expertise to benefit from this system. This system does not provide sufficient guarantees for developing countries to ensure that major economic powers comply with decisions and recommendations issued in their favor—that is, in the interest of developing countries—especially since developed countries do not respect the provisions of the Memorandum of Understanding regarding special treatment for developing countries, taking into account their economic problems and conditions. This renders the term "special treatment" stipulated in the Memorandum of

[67] Ibid., pp. 330-331.
[68] Ibid., pp. 331 ff.
[69] Na'am Hussein Ne'meh, op. cit., p. 15.
[70] Ibid., p. 15.

Understanding merely a formal slogan with no practical application. Dumping cases are among the most important issues for which the World Trade Organization has established a special settlement system. This is because the possibility of dumping cases occurring in developing countries is abundant, especially given the low prices of many imported goods, which raises doubts about the possibility of dumping in the local market. However, what distinguishes dumping cases is that their procedures are complex and difficult to prove. They also require extensive experience in international trade transactions to verify and prove their existence and maintain a comprehensive understanding of their procedures, a skill that most developing countries do not possess.

• Based on this, we can conclude this paper with the following suggestions:

- Developing countries that are members of, or wish to join, the World Trade Organization should pursue a trade policy based on protecting domestic industry from foreign competition, particularly with regard to imposing appropriate duties on imported goods that compete with domestic production.
- The necessity of establishing specialized anti-dumping bodies in all countries, especially developing countries that are members of the World Trade Organization (WTO) or wish to join it.
- Benefiting from the expertise and experience of developed and developing countries, through the creation of study and training days attended by members of the bodies specialized in combating dumping cases.
- Generalizing anti-dumping and making it a scientific curriculum at various educational levels, particularly at the university level, particularly in faculties of economics, commerce, and law.
- The necessity of raising awareness among developing countries, which must adhere to the provisions of the Memorandum of Understanding regarding preferential treatment, legal advice, and technical assistance when it comes to settling trade disputes within the framework of the WTO, including disputes related to trade dumping.
- Developing countries must be aware of the importance of attempting to resolve their trade disputes during the consultation and arbitration stages, given the speed and low cost of these procedures, and given that they do not require the expertise required by resorting to quasi-judicial methods.

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