

## WTO INFORMAL DISCUSSIONS

# India opposes plan for dispute categorisation

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New Delhi, 13 February

India and four other developing countries — Egypt, Indonesia, South Africa, and Bangladesh — have opposed efforts by developed economies to categorise dispute cases at the World Trade Organization (WTO) into standard, complex, and extraordinarily complex. This is part of the ongoing informal discussions for reforming the dispute settlement mechanism.

In a submission at the WTO, these countries have argued that the proposed new system would introduce “unnecessary subjectivity” into dispute processes.

“The authority given to the panelists to determine the nature of the case (standard, complex, and extraordinarily complex), and, to invite parties to limit their claims shifts the locus of control over the panel process away from the disputing parties to the panelists,” the five countries argued.

WTO members have engaged in informal delegate-level discussions since April 2022, initiated by the US, which is seeking consensus on reforms in the dispute settlement system in the 13th WTO ministerial conference (MC13) in Abu Dhabi later this month.

The two-tier dispute settlement system of the WTO, involving consultation and adjudication, has remained non-functional since December 2019 with the US refusing to agree to the appointment of fresh members to the seven-member appellate body, the

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## ON THE TABLE

■ Developed economies have sought categorisation of dispute cases at the WTO into standard, complex, and extraordinarily complex

■ But, countries such as India, Egypt, Indonesia, South Africa and Bangladesh have said this move will bring “unnecessary subjectivity” into the processes

■ This is part of the informal delegate-level discussions among WTO members that’s going on since April 2022

highest adjudicating authority.

The US claims that the present system has often overreached its mandate and has hinted at its preference for a single-tier system and more scope for bilaterally resolving disputes.

“While affirming our support to the common efforts in producing a positive outcome from the work of DS (dispute settlement) reform, we are concerned by the manner in which the ongoing discussions are proposing far-reaching changes that would fundamentally alter the nature of the dispute settlement system of the WTO, as envisaged by the Marrakesh Agreement. These changes undermine interests that we, as developing countries, including LDCs, have identified as essential in a reformed WTO dispute settlement system,” a joint

communication stated.

The proposed draft text, not yet available to the public, proposes panel establishment at the first relevant DSB (dispute settlement body) meeting, mandatory Alternate Dispute Resolution (ADR), and a reduction in the reasonable period of time (RPT) for compliance after a verdict to 6 months in certain instances.

“The expedited timelines are particularly worrisome since, historically, the ask of developing countries, including LDCs, has been for a minimum RPT of 15 months. Any reform of compliance must ensure additional flexibility for developing countries, including LDCs, to enable them to enforce decisions of the adjudicative bodies against developed members,” the five members said.