

DISPUTE SETTLEMENT IN THE WORLD TRADE ORGANIZATION

THIRD EDITION

The WTO dispute settlement process has evolved in recent years into one of the most successful, yet complex, systems of international arbitration. In this extensively revised new edition of Palmetier, Mavroidis, and Meagher's authoritative book on WTO dispute settlement, the authors provide a comprehensive overview of each step of the WTO dispute settlement process, examining both the history of the system, the governing legal rules, and the more informal procedural aspects of the process in detail. This edition takes into account the jurisprudence of panels and the Appellate Body up to the end of 2020 and includes an analysis of the current crisis in the WTO Appellate Body. This volume is an essential tool for practitioners, diplomats, government lawyers, and students of WTO law and should equally be of interest to students of other forms of international arbitration.

DAVID PALMETER is now retired. He was previously Senior Counsel in the law firm of Sidley Austin LLP, and a long-time advisor of governments and interested private parties in WTO dispute settlement proceedings. He was one of the first private lawyers to appear before the WTO Appellate Body. From 1994 to 1998, he was liaison for the International Bar Association to GATT, the WTO, and UNCTAD.

PETROS C. MAVROIDIS is the Edwin B. Parker Professor of Law at Columbia Law School, New York. He has previously worked with the GATT/WTO Legal Service from 1992 to 1996. He was, along with Henrik Horn, the chief co-reporter of the American Law Institute for the project on *Principles of WTO Law*.

NIAL MEAGHER is the Executive Director of the Advisory Centre on WTO Law (ACWL) in Geneva, where he was Senior Counsel from 2004 to 2012. He was previously a partner in the international trade departments of major law firms in Washington, DC, where he advised governments and private parties on international trade law.

Cambridge University Press
978-1-108-83052-2 — Dispute Settlement in the World Trade Organization
3rd Edition
Frontmatter
[More Information](#)

DISPUTE SETTLEMENT
IN THE WORLD TRADE
ORGANIZATION

Practice and Procedure

THIRD EDITION

DAVID PALMETER

Sidley Austin LLP, Retired

PETROS C. MAVROIDIS

Columbia University

NIALL MEAGHER

Advisory Centre on WTO Law (ACWL)



CAMBRIDGE
UNIVERSITY PRESS

Cambridge University Press
 978-1-108-83052-2 — Dispute Settlement in the World Trade Organization
 3rd Edition
 Frontmatter
[More Information](#)

CAMBRIDGE
 UNIVERSITY PRESS

University Printing House, Cambridge CB2 8BS, United Kingdom
 One Liberty Plaza, 20th Floor, New York, NY 10006, USA
 477 Williamstown Road, Port Melbourne, VIC 3207, Australia
 314–321, 3rd Floor, Plot 3, Splendor Forum, Jasola District Centre,
 New Delhi – 110025, India
 103 Penang Road, #05–06/07, Visioncrest Commercial, Singapore 238467

Cambridge University Press is part of the University of Cambridge.

It furthers the University's mission by disseminating knowledge in the pursuit of education, learning, and research at the highest international levels of excellence.

www.cambridge.org

Information on this title: www.cambridge.org/9781108830522

DOI: 10.1017/9781108908009

© David Palmetier, Petros C. Mavroidis, and Niall Meagher 2022

This publication is in copyright. Subject to statutory exception and to the provisions of relevant collective licensing agreements, no reproduction of any part may take place without the written permission of Cambridge University Press.

First edition published by Kluwer Law International 1999
 Second edition published by Cambridge University Press 2004
 Third edition published by Cambridge University Press 2022

A catalogue record for this publication is available from the British Library.

Library of Congress Cataloging-in-Publication Data

Names: Palmetier, N. David, author. | Mavroidis, Petros C., author. | Meagher, Niall, 1965– author.

Title: Dispute settlement in the World Trade Organization : practice and procedure / David Palmetier, Sidley Austin LLP, retired; Petros C. Mavroidis, Columbia University, New York; Niall Meagher, Advisory Centre on WTO Law (ACWL).

Description: Third edition. | Cambridge, United Kingdom ; New York, NY : Cambridge University Press, 2022. | Includes bibliographical references and index.

Identifiers: LCCN 2021029002 (print) | LCCN 2021029003 (ebook) | ISBN 9781108830522 (hardback) | ISBN 9781108820912 (paperback) | ISBN 9781108908009 (ebook)

Subjects: LCSH: World Trade Organization. | Arbitration (International law) | Tariff – Law and legislation. | Foreign trade regulation.

Classification: LCC K4610.5 .P35 2022 (print) | LCC K4610.5 (ebook) | DDC 341.5/22–dc23
 LC record available at <https://lccn.loc.gov/2021029002>

LC ebook record available at <https://lccn.loc.gov/2021029003>

ISBN 978-1-108-83052-2 Hardback

ISBN 978-1-108-82091-2 Paperback

Cambridge University Press has no responsibility for the persistence or accuracy of URLs for external or third-party internet websites referred to in this publication and does not guarantee that any content on such websites is, or will remain, accurate or appropriate.

Legal progress is often secreted in the interstices of
legal procedure.

Oliver Wendell Holmes, Jr.

Cambridge University Press
978-1-108-83052-2 — Dispute Settlement in the World Trade Organization
3rd Edition
Frontmatter
[More Information](#)

CONTENTS

Preface page xxi

1 Overview 1

§ 1.01	The ITO, the GATT, and the WTO	1
	[1] Bretton Woods and the Havana Charter	1
	[2] The Negotiation of the GATT	3
	[3] The Protocol of Provisional Application (PPA)	4
	[4] GATT's Forty-Seven "Provisional" Years	6
	[5] GATT Dispute Settlement	8
§ 1.02	The Uruguay Round	16
	[1] The Overall Context	16
	[2] The Negotiations on Dispute Settlement	18
§ 1.03	The World Trade Organization	20
§ 1.04	The Dispute Settlement Body	22
§ 1.05	The Dispute Settlement Understanding (DSU)	23
	[1] The Institutional Structure	23
	[2] The System: Civil Law and Common Law	25
§ 1.06	The Doha Round and DSU Reform	26
§ 1.07	Assistance for Developing Countries	30
	[1] The DSU	30
	[2] The Advisory Centre on WTO Law	30
§ 1.08	Other Developments: The Appellate Body Crisis	31
§ 1.09	Researching WTO Law	33
§ 1.10	WTO Dispute Settlement in a Nutshell	34

2	Jurisdiction	40
§ 2.01	Overview	40
§ 2.02	Terms of Reference	42
	[1] Rationale for Terms of Reference	42
	[2] Standard Terms of Reference	43
	[3] Special Terms of Reference	44
	[4] Parallelism Between Consultations and Terms of Reference	44
	[5] From the Terms of Reference to Submissions to a Panel	47
	[6] <i>Non Ultra Petita</i>	49
	[7] The Obligation of Panels to Consider All Issues Referred to in the Terms of Reference	50
§ 2.03	Jurisdiction <i>Ratione Materiae</i>	53
	[1] Covered Agreements	53
	[2] Conflicts Among Special or Additional Rules	54
	[3] Simultaneous Application of Different Agreements	55
	[4] The DSU and the Competence of Other WTO Bodies (Institutional Balance)	56
	[5] The “Matter” Before the Panel	58
	[6] Measures Changed During Proceedings	59
	[7] Change in the Legal Justification for a Measure	60
	[8] Measures No Longer in Effect (Expired Measures)	61
	[9] Review of Measures Taken to Comply with Rulings and Recommendations of the DSB	65
§ 2.04	Jurisdiction <i>Ratione Personae</i>	65
	[1] Non-Members	65
	[2] Non-application Between Particular Members	66
	[3] Regional and Local Government Entities	67
§ 2.05	Standing (<i>Locus Standi</i>)	69
	[1] Requirement of a Legal Interest	69
	[2] Exhaustion of Local Remedies	71
	[3] Intensity of Participation in Dispute Settlement	72
	[4] Participation of Private Parties (<i>Amicus Curiae</i>)	73
§ 2.06	Review of Jurisdictional Claims	75
	[1] Challenges to Jurisdiction	75
	[2] <i>Ex Officio</i> Review of Jurisdiction	76
	[3] <i>Res Judicata</i>	77

CONTENTS

ix

[4] Estoppel	79
[5] Engagement in Procedures in Good Faith	82
[6] Waiver of Right to Pursue Dispute Settlement	83
§ 2.07 Arbitration	84
§ 2.08 Appellate Jurisdiction	84
3 Sources of Law	86
§ 3.01 Overview	86
§ 3.02 The DSU Regime	87
§ 3.03 The Covered Agreements	88
§ 3.04 Public International Law Generally	89
§ 3.05 Implied Powers	91
§ 3.06 Agreements Explicitly Mentioned in the Covered Agreements	92
[1] The Havana Charter	92
[2] Agreements Mentioned in the TRIPS Agreement	93
[3] Agreements Mentioned in the SCM Agreement	94
[4] Agreements Mentioned in the SPS and TBT Agreements	95
[5] Other International Agreements	95
§ 3.07 Agreements Made by the WTO	96
§ 3.08 Actions by WTO Bodies	96
[1] Authoritative Interpretations	96
[2] Amendments	98
[3] Waivers	98
[4] Decisions by Permanent WTO Bodies	99
[5] Decisions by Ad Hoc WTO Bodies	102
§ 3.09 Custom	102
§ 3.10 General Principles of Law	104
[1] Error	105
[2] Non Adimplenti Contractus	105
[3] Good Faith (<i>Bona Fides</i>)	106
[4] Deference in Case of Doubt (<i>In Dubio Mitius</i>)	107
[5] Exceptions Must Be Interpreted Narrowly	108
[6] Effective Treaty Interpretation/ <i>Effet Utile</i>	108

	[7] Lex Specialis	110
	[8] Contemporaneity	113
§ 3.11	Teachings of the Most Highly Qualified Publicists	114
§ 3.12	Prior Reports by Panels and the Appellate Body	115
	[1] GATT Practice	116
	[2] Adopted GATT Reports in the WTO	117
	[3] Unadopted GATT Reports in the WTO	118
	[4] Appellate Body Reports	119
	[5] The Appellate Body and Consistency in Case Law	125
	[6] WTO Panel Reports	128
§ 3.13	International Agreements Not Incorporated in WTO Agreements	129
	[1] Tokyo Round Agreements	129
	[2] Multilateral Agreements	130
	[3] Acts by International Organizations	134
	[4] Agreements Between the Parties to a Dispute	134
	[5] Circumstances Surrounding the Conclusion of the WTO Agreements	137
§ 3.14	Decisions of Other International Tribunals	137
	[1] Overview	137
	[2] Recourse to Article 32 of the VCLT in Order to Confirm	138
§ 3.15	Domestic Law	140
§ 3.16	Interpretation of WTO Law	141
	[1] The Vienna Convention on the Law of Treaties	141
	[2] Ordinary Meaning: Use of Dictionaries	143
	[3] Context, Object, and Purpose	145
	[4] Subsequent Agreements	146
	[5] Subsequent Practice	147
	[6] Other Relevant Rules of International Law	148
	[7] Special Meaning	148
	[8] Supplementary Means of Interpretation	149
	[9] Preparatory Work: Negotiating History	149
	[10] Authentic Versions in Other Languages	151

4	Consultations and the Panel Process	153
§ 4.01	Overview	153
§ 4.02	Good Offices, Conciliation, and Mediation	154
§ 4.03	Consultations	156
	[1] Overview	156
	[2] Preparation	156
	[3] Purpose of Consultations	158
	[4] Form and Content of the Request	158
	[5] The Response to the Request	160
	[6] The Adequacy of the Request for Consultations	160
	[7] Consultations Meetings	164
	[8] Adequacy of Consultations	166
	[9] Confidentiality	167
	[10] Third Parties	170
	[11] Time Elements	171
§ 4.04	Request for the Establishment of a Panel and Terms of Reference	173
	[1] Overview	173
	[2] Time Elements	174
	[3] Form and Content	175
	[4] The Specific Measure at Issue	177
	[5] Amendment of Measures after the Panel Request	182
	[6] “Unwritten” Measures	183
	[7] Expired Measures	183
	[8] The “Claim” or the Legal Basis of the Complaint	183
	[9] Products Listed in the Panel Request	187
	[10] Standard Terms of Reference	189
	[11] Special Terms of Reference	190
	[12] Reviews and Arbitrations	190
§ 4.05	Establishment and Composition of Panels	191
	[1] Establishment	191
	[2] Composition	193
	[3] Selecting Panelists	193
§ 4.06	Function, Authority, and Responsibility of Panels	197
	[1] Overview	197

	[2] Working Procedures	198
	[3] Special Working Procedures	199
	[4] Confidentiality of the Panel Process	200
	[5] Organizational Meeting	201
	[6] Preliminary Rulings	202
§ 4.07	Third Parties, Multiple Complainants, and Counter-Complaints	203
	[1] Overview	203
	[2] Third-Party Notification	203
	[3] Third-Party Rights	205
	[4] Third-Party Rights in Reviews and Arbitrations	208
	[5] Multiple Complainants	208
	[6] Counter-Complaints	210
	[7] <i>Amicus Curiae</i> Briefs	211
§ 4.08	Role of the Secretariat	212
§ 4.09	Written Submissions to Panels	215
	[1] Overview	215
	[2] First Written Submission	216
	[3] Second Written Submission	219
	[4] Written Answers to Questions	219
	[5] Executive Summaries of Submissions	220
§ 4.10	Meetings of Panels with the Parties	220
	[1] Overview	220
	[2] First Meeting of the Panel with the Parties	222
	[3] Third-Party Session	223
	[4] Second Meeting of the Panel with the Parties	224
	[5] Open Meetings of Panels	225
	[6] “Virtual” Meetings of Panels	226
§ 4.11	Computation of Time	227
§ 4.12	Suspension of Panel Proceedings	228
§ 4.13	“Violation,” “Non-violation,” and “Other Situation” Complaints	229
	[1] Overview	229
	[2] Violation Complaints	230
	[3] Non-violation Complaints	230
	[4] “Other Situation” Complaints	232

CONTENTS

xiii

§ 4.14	Composition of Delegations	233
	[1] Representation by Private Lawyers	233
	[2] Representatives of Industry	234
§ 4.15	Interim Review	234
	[1] Overview	234
	[2] Descriptive Portions of the Report	234
	[3] Interim Reports	235
	[4] Arguments and Evidence	236
	[5] Meetings	238
§ 4.16	Final Reports	239
	[1] Format	239
	[2] Content	239
	[3] Separate Opinions	241
	[4] Adoption of Reports	242
5	Special Rules and Procedures	243
§ 5.01	Overview	243
§ 5.02	GATT and WTO Rules for Developing Countries	244
§ 5.03	The 1966 Understanding and Developing Countries	244
	[1] Consultations	244
	[2] Good Offices, Conciliation, or Mediation	245
	[3] Establishment of Panels	246
	[4] Panel Procedures	246
§ 5.04	Developing Country-Related Provisions of the DSU	247
	[1] Consultations	247
	[2] Panel Process	247
	[3] Least-Developed Countries	249
	[4] Other Provisions	249
§ 5.05	The SPS Agreement	250
	[1] Overview	250
	[2] Experts	250
	[3] Ad Hoc Consultations on Specific SPS Issues	251
	[4] Developing Countries	251

§ 5.06	Agreement on Technical Barriers to Trade	252
	[1] Overview	252
	[2] Measures Covered by the TBT Agreement	252
	[3] Experts	253
	[4] Developing Countries	254
§ 5.07	Anti-dumping Agreement	255
	[1] Overview	255
	[2] Establishment of a Panel	255
	[3] The “Matter” before an Anti-dumping Panel	256
	[4] Article 17.5: Factual Basis for Review	257
	[5] Article 17.6: Standard of Review	258
	[6] Article 17.6(i): Review of Factual Determinations	260
	[7] Article 17.6(ii): Review of Legal Determinations	262
	[8] Confidential Information	265
	[9] Developing Countries	266
	[10] Overlap with Countervailing Duties	267
§ 5.08	Agreement on Implementation of Article VII of GATT 1994 (Customs Valuation Agreement)	267
§ 5.09	Agreement on Subsidies and Countervailing Measures	268
	[1] Overview	268
	[2] Prohibited Subsidy Procedures	268
	[3] Requests for Consultations: SCM Article 4.2	269
	[4] Procedures before the Permanent Group of Experts	271
	[5] Actionable Subsidy Procedures	272
	[6] Annex V Procedures for Developing Information Concerning Serious Prejudice	273
	[7] Proceedings Involving Both Prohibited and Actionable Subsidies	279
	[8] Non-actionable Subsidies	280
	[9] Countervailing Measures	280
	[10] Developing Countries	281
	[11] Remedies	281
§ 5.10	Agreement on Textiles and Clothing (ATC)	282
§ 5.11	General Agreement on Trade in Services (GATS)	283
	[1] Overview	283

CONTENTS

xv

[2] Double Taxation Treaties	283
[3] Non-violation Nullification and Impairment	283
[4] Modification of Schedules	284
[5] Air Transport Services	287
[6] Panelists	287
§ 5.12 Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS)	287
§ 5.13 Agreement on Government Procurement	288
[1] Overview	288
[2] Proposals and DSU Notification	289
[3] DSB Authority	289
[4] Terms of Reference	290
[5] Time Limits	290
[6] No Cross-Retaliation	291
§ 5.14 Agreement on Trade in Civil Aircraft	291
§ 5.15 Agreement on Preshipment Inspection	291
§ 5.16 Arbitration	292
[1] Overview	292
[2] Non-actionable Subsidies	294
[3] Trade in Services	295
[4] <i>Sui Generis Bananas</i> Arbitrations	295
6 Evidence and Proof	298
§ 6.01 Evidence and Information	298
[1] Overview	298
[2] Types of Evidence	299
[3] Formal Requirements and Deadlines for Submission of Evidence	300
[4] Panel's Right to Seek Evidence and Information	303
[5] Duty to Provide Evidence and Information	306
[6] Adverse Inferences	308
[7] Admissions and Statements	310
[8] Notifications to the WTO	312
[9] Evidence Not Used in Reaching National Decisions	312
[10] Evidence of Municipal Law	314
[11] Experts	318

[12] Procedures for Consulting with Experts: SPS Experience	322
§ 6.02 Burden of Proof	323
[1] Overview	323
[2] Burden of Proving a Prima Facie Case	325
[3] Exceptions and Excluding Provisions	329
[4] “General Rule-Exception” Analysis	330
[5] Burden of Proof under Specific Agreements and GATT Articles	331
[6] Article 22.6 Arbitrations	334
§ 6.03 Standard of Review	334
§ 6.04 Confidential Information	339
[1] Overview	339
[2] Private Advisors and Other Parties	340
[3] Special Procedures to Protect Confidentiality	343
[4] Government Information	346
7 The Appellate Process	348
§ 7.01 Overview	348
§ 7.02 The Task of the Appellate Body	350
§ 7.03 The Right of Appeal	350
§ 7.04 Time Elements	351
[1] Limits Imposed by the DSU	352
[2] Limits Imposed by the Appellate Body	355
§ 7.05 Appellate Body Rules	357
[1] Overview	357
[2] Duties of Appellate Body Members	358
[3] Chair of the Appellate Body	358
[4] Divisions of the Appellate Body	359
[5] Decision-Making and Collegiality	359
[6] Separate Opinions	360
[7] Filing of Documents	362
[8] Notice of Appeal	364
[9] Working Schedule	367
[10] Appellant’s Submission	367
[11] Appellee’s Submission	368

CONTENTS

xvii

[12] Multiple or “Other” Appeals	369
[13] Consolidation of Appeals	370
[14] Third Participants	371
[15] Record on Appeal	371
[16] Oral Hearing	372
[17] Written Responses to Questions	375
[18] Failure to Appear and Withdrawal of Appeal	375
[19] Representation by Outside Legal Advisors	377
[20] <i>Amicus Curiae</i> Briefs	377
[21] Business Confidential Information	378
§ 7.06 Issues Relating to the Scope of Appellate Review	380
[1] Questions of Law and Questions of Fact	380
[2] Treatment of Municipal Law	382
[3] Claims Relating to Specific Provisions and Article 11 of the DSU	384
[4] The Lack of Remand Authority and Judicial Economy	386
[5] The Appellate Body’s Rulings	396
§ 7.07 The Current Impasse Regarding the Replacement of Retiring Appellate Body Members	398
§ 7.08 Efforts to Resolve the Impasse	401
[1] The Walker Process	401
[2] The MPIA	402
8 Adoption and Implementation of Reports	406
§ 8.01 Overview	406
§ 8.02 Consideration and Adoption of Reports	406
§ 8.03 Notification of Implementation Intentions	409
§ 8.04 Legal Framework for the “Reasonable Period of Time”	410
§ 8.05 Agreements Establishing the “Reasonable Period of Time”	411
§ 8.06 Arbitrations Establishing the “Reasonable Period of Time”	412
[1] Overview	412
[2] Time within Which to Request Arbitration	413

[3] The Arbitrator	414	
[4] The Mandate of the Arbitrator	415	
[5] Time Allowed for Implementation	417	
§ 8.07 Factors Affecting Time Allowed for Implementation	420	
[1] Overview	420	
[2] Complexity	421	
[3] Need for Legislative Action	423	
[4] Contentiousness of the Issues	425	
[5] Economic Harm	426	
[6] Developing Countries	427	
[7] Other Emergencies	429	
§ 8.08 Surveillance by the DSB	429	
§ 8.09 Disputes Regarding Implementation	430	
[1] Overview	430	
[2] Procedures	432	
[3] Standing to Initiate Article 21.5 Reviews	434	
[4] Requirement of Consultations	436	
[5] Third-Party Rights	437	
[6] “Existence” of an Implementing Measure	438	
[7] Scope of Article 21.5 Reviews	439	
[8] Burden of Proof	448	
[9] Suggestions to Implement	449	
§ 8.10 Prohibited and Actionable Subsidies	450	
[1] Overview	450	
[2] Period to Withdraw a Prohibited Subsidy	451	
[3] “Withdrawal” of a Prohibited or Actionable Subsidy	452	
[4] To “Remove the Adverse Effects” of an Actionable Subsidy	455	
§ 8.11 “Other Situation” Complaints	456	
9 Remedies	457	
§ 9.01 Overview	457	
§ 9.02 GATT Practice	458	
§ 9.03 Overview of the WTO Remedy Regime	461	
§ 9.04 Mutually Agreed Solutions	462	

CONTENTS

xix

§ 9.05	Purpose of Compensation and Suspension of Concessions	465
§ 9.06	Compensation	467
§ 9.07	Suspension of Concessions or Other Obligations	468
	[1] Request for Authorization to Suspend Concessions	468
	[2] “Carousel” Suspension	471
	[3] Approval of Request/Referral to Arbitration	471
	[4] Arbitration Procedures	473
	[5] Jurisdiction of the Arbitrator	474
	[6] Time Limits for Arbitration	476
	[7] Consequences of Arbitration	477
	[8] Burden of Proof	478
	[9] Information from Other Sources	480
	[10] Determination of the Level of Nullification or Impairment	481
	[11] “Cross-Retaliation”	484
	[12] Temporary Nature of Suspension of Concessions	489
	[13] Third-Party Rights	491
§ 9.08	The “Sequencing” Problem	492
	[1] Overview	492
	[2] The <i>Bananas III</i> Dispute	494
	[3] Ad Hoc Sequencing Agreements	497
	[4] Proposals for Change	501
	[5] The Safeguards “Sequencing” Problem	502
§ 9.09	Prohibited and Actionable Subsidies	504
	[1] Overview	504
	[2] “Appropriate Countermeasures” under Article 4	505
	[3] “Commensurate with the Degree and Nature of the Adverse Effects” under Article 7	509
	[4] Multiple Complainants	510
§ 9.10	Panel and Appellate Body Implementation Suggestions	512
	[1] Overview	512
	[2] Trade Remedy Cases	513
	[3] Cases under Other Agreements	516
	[4] Legal Effect of Implementation Suggestions	517

10 Conclusion 518

Appendix 1 – Sample Working Procedures 521

Appendix 2 – Sample BCI Procedures 531

Bibliography 534

Index 547

PREFACE

This work is intended to assist everyone – diplomats, government officials, lawyers, and students – that seeks to understand the workings of the WTO dispute settlement system. It grew from the experience of its authors, a private practitioner who has advised and represented governments and private parties under both the WTO and its predecessor, the General Agreement on Tariffs and Trade (GATT); a prominent academic and former official of the Legal Affairs Division of both GATT and the WTO, who advised numerous panels; and the Executive Director of the ACWL, which advises developing and least-developed countries on WTO law and in dispute settlement proceedings.

Since the second edition of this book, there has been an exponential increase in the jurisprudence of WTO panels and the Appellate Body. In the space available, we cannot do full justice to all of this case law, but we have tried to highlight the most important developments and, at least, to provide sufficient guidance to those who may need to delve deeper into a particular topic to be able to do so. In addition to the developments in the jurisprudence, there has also been a significant evolution in the informal practices and WTO “ways of doing things” that are part and parcel of any system of adjudication. As these informal practices are not always written down or not always evident on the face of the published reports, we have sought to describe them in as much detail as possible here.

From time to time we may comment critically on the decisions of panels and the Appellate Body, but this is not the focus of the book. Critical and analytical scholarly literature on the WTO dispute settlement system has also increased exponentially since the last edition. We refer to some of this literature at appropriate points, although it must be noted that given the huge expansion of this body of literature since the previous edition of this book, we do not refer exhaustively to the literature.

In the previous edition, we provided an annex containing the standard panel working procedures that are annexed to the *Understanding on Rules and Procedures Governing the Settlement of Disputes*, or DSU.

Given the manner in which panels have, in practice, expanded on these standard procedures, in this edition we instead attach a copy of the working procedures that were used by the panel in a recent dispute. We do not include the full text of the DSU or the relevant dispute settlement provisions of other WTO agreements, which may be found at the WTO's website, www.wto.org, and are published in a convenient volume by the WTO and Cambridge University Press in *THE WTO DISPUTE SETTLEMENT PROCEDURES*. In this edition, we follow the practice of using the "official" short titles of cases in the text for citation purposes. A table of cases containing the full citations is available at www.wto.org/english/tratop_e/dispu_e/dispu_status_e.htm. We have also included a short section in Chapter 1 that describes some of the resources that are available to those interested in further research on WTO dispute settlement.

Chapter 3 of this volume is a now highly revised version of an article, *The WTO Legal System: Sources of Law*, that first appeared in volume 92 of the *AMERICAN JOURNAL OF INTERNATIONAL LAW*, © The American Society of International Law, which has kindly consented to its use here.

This edition is long overdue, for which we apologize. As John Lennon sang in *Beautiful Boy*, "life is what happens to you/While you are busy making other plans" (to finish this project, he might have added). We are very grateful to Finola O'Sullivan of Cambridge University Press for her patience and, indeed, indulgence in this regard – *go raibh míle maith agat*. We would also like to thank Marianne Nield, Chloe Quinn, and the rest of the Cambridge University Press for their patience and hard work in enabling this edition to see the light of day. We especially thank Alice Stoakley for her expert and diligent editing of the manuscript.

For their assistance in answering questions, furnishing documents, or reading and commenting on early versions of this and previous editions of this book, we thank: Maria Alcover, Jan Bohanes, Tegan Brink, Leah Buencamino, Carlo-Maria Cantore, Pascale Colombo, Patricia Crawley, Victoria Donaldson, Guy Evans, Todd Friedbacher, Bonnie Galvin, Laurie Hieta, Rodd Izadnia, Reto Malacrida, Marco Tulio Molina Tejada, Julia Pain, Fernando Pierola, Neeraj Rajan Sabitha, Yves Renouf, Alejandro Sanchez, Celso de Tarso Pereira, Jasper Wouters, Alan Yanovich, Arun Venkataraman, Joelle Vuillemot, Hannu Wager, Rhian Wood, and Werner Zdouc. Heartfelt thanks also to Adeet Dobhal, and Sunayana Sasmal who provided valuable comments on the full manuscript. All errors and omissions are, of course, the responsibility of the authors.