



India to take Australia to WTO Arbitration

For Prelims: [World Trade Organization \(WTO\)](#), [General Agreement on Trade in Services \(GATS\)](#), [Joint Statement Initiatives \(JSIs\)](#), [Dispute Settlement Mechanism](#), [Dispute Settlement Body \(DSB\)](#), [Appellate Body](#), [Developing countries](#), [International trade agreements](#)

For Mains: [World Trade Organization \(WTO\)](#), [Services sector](#), [General Agreement on Trade in Services \(GATS\)](#), [Joint Statement Initiatives \(JSIs\)](#), [Dispute Settlement Mechanism](#)

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Why in News?

India has sought **arbitration proceedings** under the [World Trade Organization \(WTO\)](#) rules against **Australia** to resolve an issue concerning the services sector, as it could impact India's trade in services.

What are the Concerns Raised by India Against Australia?

- In February 2024 in Abu Dhabi, over 70 WTO nations agreed to **Joint Statement Initiatives (JSIs)** to take **additional obligations** under the [General Agreement on Goods in Services \(GATS\)](#) to ease non-good trade among themselves and extend similar concessions to all other members of the WTO.
 - **GATS** is a **WTO** agreement that came into force in **1995**. India has been a member of the Geneva-based organisation since 1995.
- These **obligations seek to mitigate unintended trade restrictive measures** relating to **licensing requirements** and procedures, qualification requirements and procedures, and technical standards among themselves.
- It will also **benefit Indian professional companies** which will now have **equal opportunity** to access markets in these 70 countries if they meet the standards.
- As per estimates, the move will help reduce services trade costs by 10% for lower-middle-income economies and 14% for upper-middle-income economies, with overall savings of USD 127 billion.
- **Opposition to Joint Statement Initiatives (JSIs):**
 - The new agreement in Abu Dhabi is a **plurilateral agreement where just 72 out of 164 WTO members are a party**.
 - **India, South Africa, and many WTO members haven't agreed to this deal**, and India, like other developing nations, **opposed various Joint Statement Initiatives (JSIs) because they're not negotiated by all members**.
 - Experts argue that this trend of integrating Joint Statement Initiatives (JSI) into WTO **will weaken the WTO** and pave the way for adopting many more such JSIs on investments, [Micro, Small and Medium Enterprises \(MSME\)](#), [gender](#), and [e-commerce](#).
 - Australia's adherence to its commitments under a JSI is a **point of contention** in the dispute.
- **The Australia Case:**
 - In 2023, **Australia notified the WTO about intention to modify** its schedule of specific commitments under the GATS to **incorporate additional commitments** relating to

- services domestic regulation.
- As an "**affected member**", India has stated that Australia's intended modification of its specific commitments does not satisfy certain conditions.
- Despite **negotiations between India and Australia**, no agreement was reached.

What is WTO's Dispute Settlement Mechanism?

▪ Consultations:

- Before initiating a formal dispute, the complaining party must request consultations with the defending party. This is the **first step in attempting to resolve the dispute amicably through negotiations**.
- Consultations must be held **within specific time frames**, and the parties involved are encouraged to find a mutually agreeable solution.

▪ Panel Establishment:

- If consultations **fail to resolve the dispute**, the complaining party can request the establishment of a dispute settlement panel. The **Dispute Settlement Body (DSB)** oversees this process.
- The **General Council convenes as the DSB to deal with disputes** between WTO members. The DSB has the authority to:
 - establish dispute settlement panels,
 - refer matters to arbitration,
 - adopt panel, Appellate Body and arbitration reports,
 - maintain surveillance over the implementation of recommendations; and
 - authorise suspension of concessions in the event of non-compliance with those recommendations and rulings.
- The panel is composed of **independent experts** with relevant expertise in trade law and the subject matter of the dispute. The panel **examines the case, reviews arguments from both sides, and issues a report**.

▪ Panel Report:

- The panel's report includes findings of fact, legal interpretations, and recommendations for a resolution. It is **circulated to all WTO members**, allowing them to review and provide comments.

▪ Adoption or Appeal:

- The **report becomes the Dispute Settlement Body's ruling** or recommendation **within 60 days unless a consensus rejects it**.
- **WTO's Appellate Body:**
 - The Appellate Body was established in 1995 under Article 17 of the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU).
 - It is a **standing body of seven persons** that hears appeals brought by WTO Members. The members of the appellate body serve for a four-year term.
 - It can **uphold, modify or reverse** the legal findings and conclusions of a panel.
 - **Appellate Body Reports**, once adopted by the DSB, **must be accepted by the parties to the dispute**.
 - The Appellate Body has its seat in **Geneva, Switzerland**.

▪ Implementation of Recommendations:

- If a WTO member is found to **violate its obligations**, it is expected to bring its measures into compliance with WTO agreements.
- If the member fails to do so, the complainant may seek **authorisation to retaliate** through the suspension of concessions or other measures.

Issue with WTO's Dispute Settlement Mechanism (DSM)

- The US has **systematically blocked** the appointment of **new Appellate Body members** and judges and de facto impeded the work of the WTO appeal mechanism.
- Developing countries, including India, advocate for the restoration of the **WTO's dispute settlement mechanism (DSM)** to its previous functional state, emphasising the importance of the checks and balances provided by the appellate body.
- Developing countries face three options to maintain a two-tiered DSM at the WTO like joining the **European Union-led Interim Appeal Arbitration Arrangement (MPIA)**, accepting a diluted appellate

body and resurrecting the original appellate body with an opt-out provision

Conclusion

- The arbitration process at the WTO serves as a **mechanism for resolving such disputes and upholding the rights** and obligations of member countries.
- Both countries can revisit negotiations to find a mutually agreeable solution. The WTO dispute settlement process encourages settlements at any stage.
- India has already initiated WTO arbitration. This process involves a panel of experts who will issue a ruling based on WTO agreements and interpretations. While the WTO's Appellate Body is currently dysfunctional, **arbitration can provide a temporary solution.**
- India has been a strong advocate for reforming the WTO's dispute settlement mechanism. A **well-functioning Appellate** Body would be **crucial for future trade disputes.**

Drishti Mains Question:

Q. Critically analyse the current challenges faced by the World Trade Organization (WTO) in fulfilling its mandate of promoting fair and free trade among nations.

UPSC Civil Services Examination, Previous Year Question (PYQ)

Prelims:

Q. India enacted the Geographical Indications of Goods (Registration and Protection) Act, 1999 in order to comply with the obligations to (2018)

- (a) ILO
- (b) IMF
- (c) UNCTAD
- (d) WTO

Ans: (d)

Q. The terms 'Agreement on Agriculture', 'Agreement on the Application of Sanitary and Phytosanitary Measures' and 'Peace Clause' appear in the news frequently in the context of the affairs of the (2015)

- (a) Food and Agriculture Organization
- (b) United Nations Framework Conference on Climate Change
- (c) World Trade Organization
- (d) United Nations Environment Programme

Ans: (c)

Q. In the context of which of the following do you sometimes find the terms 'amber box, blue box and green box' in the news? (2016)

- (a) WTO affairs

(b) SAARC affairs

(c) UNFCCC affairs

(d) India-EU negotiations on FTA

Ans: (a)

Q. Consider the following statements: (2017)

1. India has ratified the Trade Facilitation Agreement (TFA) of WTO.
2. TFA is a part of WTO's Bali Ministerial Package of 2013.
3. TFA came into force in January 2016.

Which of the statements given above is/are correct?

(a) 1 and 2 only

(b) 1 and 3 only

(c) 2 and 3 only

(d) 1, 2 and 3

Ans: (a)

Mains:

Q. What are the key areas of reform if the WTO has to survive in the present context of 'Trade War', especially keeping in mind the interest of India? **(2018)**

Q. "The broader aims and objectives of WTO are to manage and promote international trade in the era of globalization. But the Doha round of negotiations seem doomed due to differences between the developed and the developing countries." Discuss in the Indian perspective. **(2016)**