Chapter 4
Methodology and Analysis

4.1. Methodology of the Study

The study is aimed at assessing the style of functioning of the WTO DSB and the implication of the same on trade policy. The study is not aimed at providing any forecast of the dispute process. Hence it was decided that descriptive method of research will be followed for this study. The technique used in this study for the descriptive research design is case study method. The dispute cases formed the basic source of data for the study.

4.2. Scope of the Study and Source of Data

The data relating to the dispute cases brought to the WTO Dispute Settlement Board from 1 January 1995 (the date of inception) till January 2009 (the time of adoption of data for the present study) form the basic source of data for the study. Accordingly 390 cases are included in the data span (DS 01 to DS 390). The case publications are continuously visited to obtain the updates on the Process of Settlement for respective cases and the present study includes updates available till July 2012. The study covers various aspects of dispute handling including the profile of the countries, and the trade policy issues at the global level. The study is conducted at a macroeconomic and general trade policy framework level. The data available only from the official web sources of the WTO is considered as the database of the study. Other relevant information was collected from the official sources of various international agencies like UN\(^1\), IBRD\(^2\&3\) and others.

4.3. Introduction to the Analysis

As discussed earlier\(^4\), the basic data forming this analysis are the records of cases registered with the WTO DSB under provisions of various Agreements. These cases were initiated by different types of nations, were originating from various sectors of trade and were pertaining to various WTO Agreements.

4.4. Disaggregation of the Cases

As the role of the WTO in facilitating trade, being one of the major focal points of the study, the cases were disaggregated by using the ‘status of economic development’ of Member Countries. The status of economic development has been drawn from the...

(a) High income ($12,196 or more)
(b) Middle income ($995 to 12,195), and
(c) Low income countries ($995 or less)

These categories are further divided into several subcategories (Ref. Annexure 2). For the convenience of analysis, High income categories are termed as Developed Countries and Middle and Low income categories are together termed as Developing Countries.

Further to this grouping of countries into ‘Developed (Dd) and Developing, (Dg) the entire data range (of cases) has been further disaggregated into five categories viz.

4.4.1. Category I (Dd Vs Dd)

Cases which are initiated by Developed Countries against Developed Countries: the Developed Countries are the complainants and the Developed countries are the respondents (defendants). This category is called in short as Developed Country (plaintiff/complainant) Vs Developed Country (respondent/defendant)

4.4.2. Category II (Dd Vs Dg)

Cases which are initiated by Developed Countries against Developing Countries: the Developed Countries are complainants and the Developing Countries are respondents. This category is called in short as Developed Country Vs Developing Countries.

4.4.3. Category III (Dg Vs Dd)

Cases which are initiated by Developing Countries against Developed Countries: the Developing Countries are complainants and the Developed Countries are respondents. This category is called in short as Developing Country Vs Developed Country.

4.4.4. Category IV (Dg Vs Dg)

Cases which are initiated by Developing Countries against Developing Countries: the Developing Countries are complainants and the Developing Countries are
respondents. This category is called in short as Developing Country Vs Developing Country.

4.4.5. Category V - Others

Cases which are initiated by more than one country jointly and these countries differ in status of development. Therefore, this category is called as ‘others.’

Detailed analysis of this category is not vital for various aspects of this study and hence the data of this category is mentioned at limited length wherever required.

The party who initiates a case is called as plaintiff or complainant. The party against whom the case is initiated is called as respondent or defendant. Generally the present study uses terms ‘complainant’ and ‘defendant’ to denote the parties respectively. Each case is examined in detail and data entry is done according to the prefixed parameters. Hence the basic data table formulation itself was to be done on an analytical basis. (See Annexure 3 for the variables identified for the study).

Most of the entries in the data tables were non-numerical values which were converted into numerical values by simple numerical coding system (0, 1, 2, 3 …). Two main tables were made separately –one for the general parameters and another for the agreement wise case data including various Provisions (Ref Annexure 4).

4.5. Organization of Analytical Notes

The data analysis is organized in two parts:-

a) Part I- General analytical notes are derived from the basic tables in order to draw macro level conclusions on the functioning of the WTO DSB System

b) Part II- Analysis based on hypothesis in order to draw specific conclusions on certain specific areas of research enquiry

SPSS version 19.0 and Microsoft excel were the main tools used for data entry and data mining. Several cross-tables were made to obtain analytical points from various angles. Percentage method is used mostly as the statistical tool for analysis. The general conclusions are arrived at using a set of tables based upon the above mentioned parameters.

Five major hypotheses were proposed to be tested by the study. It was understood that these hypotheses required analysis other than pure statistical testing. Hence descriptive method of analysis was adopted with the help of several cross tables
generated from the source tables. The inferences drawn are indicative but not conclusive.

4.6. Limitations of the Study

4.6.1. The database on cases is for a time span of approximately 15 years. This time span is too limited to pass comments on an organization like the WTO which has objectives of far reaching effects and subjects which are exhaustive.

4.6.2. The DSB, which is the built-in mechanism for the settlement of disputes under the auspices of the WTO, will itself take some time to perfect its own structure, organization and style of functioning. The efficacy of the DSB will have to be time tested and this aspect will be possible only to a limited extent in the present context since we are too near the event.

4.6.3. The study is conducted at the macroeconomic and macro policy level. At the same time there is a need for studying the issues of harmonization of trade policy regimes between the independent nations. The synchronization of the domestic trade policy issues and the obligations on the commitments to the WTO agreement on the part of the Member Countries is a paradox for many of these nations. Hence very precise conclusions on these aspects are difficult to arrive at through the study. Even so some attempt has been made to this end in the present study.

4.7. Future Scope of the Study

The commercial transactions of whichever type and between whichever parties are bound to be the sources of disputes. These sources of disputes are prevalent in the past, present and may prevail in the future as well. It must be emphasized however that the nature and composition of the disputes and the disputing parties are bound to change with the change in time. A study of the dispute settlement mechanism, which is the main focus of the present study, can always be considered as a precedent for any such studies at the global level in years to come. The present study includes 390 cases (case filed from Jan 1995 to Jan 2009). The parameters set for the study is strictly confined to the objectives drawn. Future studies may include more cases and additional parameters. The study confines only to the macro level analysis. Further iterations can be made by considering cases at micro individual and domestic national levels which require more exhaustive study and a wider time span.
Aspects relating to the members that are not using the dispute settlement system can be studied in detail. Few areas of enquiry can be: - what is preventing them from using the system- cost or lack of expertise? And is it due to having more faith in alternative system of dispute settlement than in litigation? What induces a Government to go for WTO Dispute settlement process? Is it due to Industry pressure? Or, is it because the value of Trade is large enough to warrant it? Is there any threshold level of value of Trade that triggers this entry into the DSB fold?