SHORT ABSTRACT: SANCTIONS AND THE ISSUE OF INDUCED COMPLIANCE IN WORLD TRADE ORGANISATION DISPUTE SETTLEMENT

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STATEMENT OF PROBLEM

The most salient feature of the World Trade Organization (WTO) Dispute Settlement System is the possibility of authorizing a trade sanction against a scofflaw member government. Yet this feature is a mixed blessing. On the one hand, it fortifies WTO rules and promotes respect for them. On the other hand, it undermines the principle of free trade and provokes "sanction-envy" in other international organizations. Undoubtedly, the implanting of "teeth" by the WTO negotiators was one of the key achievements of the Uruguay Round, and a very significant step in the evolution of international economic law. But after six years of experience, WTO observers are beginning to consider whether recourse to damaging trade measures was a good idea. This work provides an analytical framework for rethinking WTO trade sanctions.

HYPOTHESIS

A core philosophical dilemma: should sanction against non-compliance aim strictly at repairing the damage caused or should it go beyond and achieve a punitive effect? Are there any alternative solutions in-between? We believe that this is a key issue, upon which, to a large extent, the much sought after stability and predictability of the multilateral trading system depends.

SCOPE & OBJECT OF STUDY

Research on the dispute settlement system has become more and more interdisciplinary. Recent years have seen a surge in publications that have been jointly written by authors from the legal field and authors with a background in economics or political science. Despite the rich literature on the Dispute Settlement Understanding (DSU) from various disciplinary backgrounds, the DSU sanctions as such are a fairly new research topic. This holds in particular if it is judged in the light of the general explosion of literature on the DSU and in the light of the vivid interest that even single adjudicating decisions have attracted – e.g. the rulings in the ***Shrimp-Turtle*** or the ***Bananas*** cases, each of which has become the subject of countless contributions. This overemphasis on rulings and recommendations, and the lack of interest in the political discussions, is dangerous from both an analytical and a practical perspective. From the analytical point of view, it creates a general perception in which the role of the adjudicating bodies is chronically overstated and where the intergovernmental, member-driven character of the Organization is largely overlooked. Practically, such a distorted assessment may lead to policy recommendations or actions which are out of tune with political realities and which may endanger the sustainability of the system at large and, by consequence, the stability of the international trade order.

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