

THE PRACTICE OF MEDIATION AND NON-LITIGATION IN THE DISPUTE SETTLEMENT MECHANISM BETWEEN CHINA AND THE WTO

A PRÁTICA DA MEDIAÇÃO E DO NÃO LITÍGIO NO MECANISMO DE RESOLUÇÃO DE CONFLITOS ENTRE A CHINA E A OMC

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Abstract

This paper examines the application of mediation and other non-litigation practices that China applies in its dispute resolution approach in the World Trade Organization (WTO). With the emergence of alternative dispute resolution (ADR) as a major trend in global trade governance, China has started to pay greater attention to the importance of mediation as one of the ways to encourage cooperation, avoid confrontation, and enhance the efficiency of trade dispute resolution. The study will review the effectiveness of these practices through analysing their congruency with the Chinese focus on harmony and how they have contributed to the operation of the WTO dispute settlement system. The study relies on the records of WTO cases, Chinese policy documents, and legal scholarship, as the study design consists of a systematic literature review and thematic analysis based on a qualitative research design. The results indicate that ADR system in China is more effective in terms of dispute resolution and it also adds to the diversified and relationship-based WTO system. Such observations indicate the changing nature of mediation in the international trade disputes and suggest larger implications to the future of ADR in the international economic governance.

Resumo

Este artigo examina a aplicação da mediação e de outras práticas não contenciosas que a China aplica na sua abordagem de resolução de litígios na Organização Mundial do Comércio (OMC). Com o surgimento da resolução alternativa de litígios (ADR) como uma tendência importante na governança do comércio global, a China começou a prestar mais atenção à importância da mediação como uma das formas de incentivar a cooperação, evitar confrontos e aumentar a eficiência da resolução de litígios comerciais. O estudo analisará a eficácia dessas práticas através da análise de sua congruência com o foco chinês na harmonia e como elas contribuíram para o funcionamento do sistema de resolução de disputas da OMC. O estudo se baseia nos registros de casos da OMC, documentos de política chineses e estudos jurídicos, uma vez que o desenho do estudo consiste em uma revisão sistemática da literatura e análise temática com base em um desenho de pesquisa qualitativa. Os resultados indicam que o sistema ADR na China é mais eficaz em termos de resolução de disputas e também contribui para o sistema diversificado e baseado em relações da OMC. Tais observações indicam a natureza mutável da mediação nas disputas comerciais internacionais e sugerem implicações mais



Keywords: Alternative dispute resolution. Mediation. Non-litigation. Harmony. Diversified dispute resolution.

amplas para o futuro do ADR na governança econômica internacional.

Palavras-chave: Resolução alternativa de disputas. Mediação. Não contencioso. Harmonia. Resolução diversificada de disputas.

1 INTRODUCTION

The high international trade rates have increased the tension between nations and hence the conflicts are nearly inevitable when nations struggle to defend their economic interests. Here, the World Trade Organization (WTO) has established a formal dispute settlement system that hitherto has been highly reliant on litigation as its primary method of dispute resolution. (Nolan et al., 2023). Litigation may be more structured and formal, but it is often expensive, complex, and time-consuming. States involved can face severe financial and diplomatic strain as a result. These barriers have contributed to the renewed focus on more collaborative and less confrontational approaches, and mediation and other non-litigation approaches have emerged as a major alternative (Merrills, 2017).

The emergence of China as an important participant in the global trade has placed another twist to the concept of alternative dispute resolution (ADR). China has also been extremely forceful in promoting mechanisms, such as non-litigation and mediation, as this is reflective of its strategic economic locations, as well as, its customary harmonious culture and consensus. Having firm roots in the tradition of the absence of open confrontation, the Chinese preference of the mentioned strategies could be related to the main philosophical ideas of the importance of value social harmony and stability between people (Reform et al., 2019). Specifically, mediation should appeal to such cultural background: both parties are free to express their views, reduce confrontation, and work towards the win-win outcomes (Guo, 2022). As a result, Chinese approach has increasingly acquired broader coverage in WTO negotiation and this attracts the attention of the world that it is a valuable addition to formal litigation.

Although the WTO has had legalistic measures in place for decades, their feasibility boundaries have come into closer light. The process has a tendency to be long, expensive, and in certain cases, it can lead to an increase in political conflicts between

the members (Eixab, 2022). The adversarial aspect of litigation frequently results in the formation of an outcome, which is both legally binding but potentially harmful in the long-term to the diplomatic or trade relationship. These facts have prompted the members of WTO to reconsider the merits of more accommodating and compromising dispute resolution mechanisms. The growing trend of the use of ADR in China is especially notable in this argument in that it represents a conscious effort to balance between the proper management of dispute and the maintenance of international goodwill. However, it is still unclear how effectively mediation and non-litigation measures can fit within the WTO rules framework and whether they can provide results that are perceived to be just, binding, and consistent (Kirkwood, 2023).

It is on this background that the current research examines the unique way of ADR in China within the WTO system, the aspects of how the implementation of mediation and non litigation are applied, the degree to which cultural values of harmony are used in making such decisions, and the effectiveness of the systems relative to the traditional litigation. The investigation of official WTO reports, Chinese legal and policy literature, and academic sources gives a systematic and detailed evaluation of how China is operating and how this impact will be affected on the future of dispute resolution in the international trade.

1.1 Research questions

- How does China implement mediation and non-litigation within its WTO dispute resolution practices?
- In what ways does the principle of harmony influence China's approach to ADR in WTO disputes?
- How effective are mediation and non-litigation compared to traditional litigation for resolving WTO disputes?

1.2 Objectives

- To evaluate the methods by which China incorporates mediation and non-litigation in WTO dispute resolution, identifying specific practices and frameworks employed.
- To explore the cultural significance of harmony in shaping China's ADR approach within the WTO framework and its influence on procedural and relational aspects of dispute resolution.
- To assess the comparative effectiveness of mediation and non-litigation practices relative to traditional litigation, focusing on their impact on resolution efficiency, cost-effectiveness, and maintenance of diplomatic relations.

2 LITERATURE REVIEW

2.1 Alternative dispute resolution in international trade

The alternative dispute resolution (ADR) has come to be recognized as a significant system of mechanisms that can be used to resolve complicated trade disputes, without necessarily involving the inflexible framework of formal litigation in the sphere of international trade. Increased complexity of global business transactions has made ADR a useful supplement to the more resource-intensive and procedural-intensive dispute settlement procedures of the WTO (World Trade Organization Secretariat, 2017). The main ADR, mediation, conciliation and arbitration, focus on dialogue and cooperation, which allow parties to ensure that they continue working relationships despite the conflict. The advantage of mediation is that it is flexible: a neutral third party can assist in clarification of misunderstandings, facilitation of communication, and point opponents towards self-voluntary solutions (Merrills, 2017). Lack of binding decisions as in arbitration, mediation offers more control of the resolution of a conflict by the parties involved unlike arbitration that may seem like a court session.

Researchers tend to emphasize the benefits of ADR as compared to litigation, particularly when complex relationships are involved in international business and other

diplomatic issues are considered. According to Shaffer and Gao (2020), ADR does not only save financial and time resources but also gives up the adversarial nature of litigation, which is especially beneficial in trade negotiations that presuppose long-term collaboration. Confidentiality, which is among the key characteristics of ADR, is even more attractive, as nations might want to resort to the less obvious ways of resolution which will not make sensitive commercial information enter the open space. Nevertheless, in spite of these advantages, critics also mention the possible negative characteristics: mediation might not be legally binding or certain as with formal decisions, and the results of the mediation can be different in accordance with the desire of the parties to compromise (Alexander, 2024). However, ADR continues to rise in the international trade institutions and is more active in such states as China, where conflict-avoidance and consensus-building strategies are based on cultural and strategic aspects (Pablo, 2024).

2.2 ADR practices and concept of harmony in China

The participation of China in ADR is not comprehensible without considering the deep cultural and philosophical roots of the Chinese legal and diplomatic reasoning. The traditional Chinese philosophies, particularly, Confucianism and Taoism emphasize heavily on harmony, social order and conflict resolution; conflict is solved through mutual understanding and not through confrontation (Wei-Ming, 1990). This cultural orientation is the setting behind the Chinese preference of mediation and other non-litigation approaches to counterparts both locally and internationally. Harmony is not only an ideal but a principle that determines the way conflicts are to be handled which puts the welfare of the community and relations stability as priorities. As a result, mediation has always been popular in China as a strategy that meets the requirements of Confucianism of cooperation, respect and collective good.

Using it in the context of the WTO, the harmony-based ADR philosophy of China means that the style of dispute resolution in the country is significantly divergent concerning those of the Western adversarial tradition, which tends to favour rights-based arguments and case law (Nolan et al., 2023). The ADR practices implemented in China are aimed at reducing hostility, saving face, and economic and diplomatic relations. This

is evident in the fact that China finds it preferable to conduct constructive dialogue as opposed to pursuing litigation immediately when conflicts of trade appear. Wang and Chen (2019) argue that the introduction of mediation in the WTO procedures by China is not only the best practice but also a practical decision that has been shaped by the culture. Moving towards a win-win approach, China will prevent any further tensions and minimizes reputational risks in case of controversial court trials.

Research demonstrates that this focus on harmony has had a practical implication in WTO dispute settlement. As Yanting et al. (2023) note, the strategy of China is aimed at promoting cooperation and is an extension of the general diplomatic policy in the country aimed at establishing a stable and cooperative relationship with trade partners. China has been a strong advocate in increasing ADR options in the WTO since its joining in 2001 (Scott & Wilkinson, 2017). However, its more harmonious style is at times opposed to the more formalistic legal format of the WTO, creating concern about the interaction of cultural norm and international trade regulations. Nevertheless, ADR practices in China show to what extent culturally sensitive models of dispute resolution may drive the discourse of international governance and be used to inspire more relational-oriented solutions in the future.

2.3 WTO dispute settlement processes

The WTO dispute settlement system has been generally considered as one of the most organized and legally strict system in the international economic governance. It was set up under the Dispute Settlement Understanding (DSU) which gives a well-structured procedure according to which the member states may appeal against perceived contravention of the trade rules (Davey, 2005). The dispute process is usually carried out in the form of consultations, panel review, and, in case of a need, by addressing the Appellate Body. This framework, based on rules, is intended to provide consistency, transparency, and enforceability of the decisions to ensure that the members have a safe channel of dealing with trade grievances (Hoekman and Mavroidis, 2020). The litigation formalities provided by the WTO has contributed towards the maintenance of foreseeable trade standards and the system is a pillar of economic stability within the world trade.

However, the WTO's litigation approach, while structured, has significant weaknesses. Its length, intricacy, and expensive nature are often criticized as an obstacle to the less endowed nations trying to pursue valid claims (He, 2018). Besides, legal activities involving a trial of arms, may worsen political and commercial relations between conflicting members, even in cases where the conflict may be settled. Although litigation yields binding results, they do not always resolve underlying problems or promote understanding and hence repeated conflicts or dissatisfaction with an adopted judgment (Bown, 2024). These shortcomings have led to growing enthusiasm over the idea of incorporating more accommodationist approaches into the WTO dispute settlement system.

ADR options (i.e., good offices, conciliation, and mediation) are formally accepted in the DSU, but they are not widely used, which is, in large part, due to the preference of member states to pursue litigation, as a source of legal certainty (Davey, 2014). To ensure that ADR assumes a more significant role, institutional culture and willingness of the members have to change. Here, the insistence by China on the idea of mediation and non-litigation is noteworthy. Its advocacy of ADR represents one of the potential ways in which the WTO dispute settlement system may be reformed to encompass a wider array of approaches in which relationships are maintained. The practice of China highlights the prospects and difficulties of integrating a rule-driven system with culturally-based, collaborative strategies.

3 THEORETICAL FRAMEWORK

3.1 Harmony and ADR theory

Harmony is also one of the most characteristic elements of the Chinese cultural thought that contributed to the perception of human relations and the way in which the institution addressed conflicts. According to the Confucian and Taoist philosophy, harmony is everything about harmony, teamwork, and going without unnecessary conflict. These principles are the logical continuation of the Chinese approach to legal proceedings, including their preference to alternative dispute resolution means. Harmony, as a guiding principle in dispute resolution (prioritizing relationships and minimizing

adversarial tendencies), is not only a cultural ideal but also an important factor in mediation and non-litigation contexts. (Tan, 2007).

From this perspective, ADR becomes not merely a procedural alternative, but a reaction to more fundamental social values. Mediated solutions are more compatible with the cultural demands than the outcomes of a strict legal adjudication process influenced by the Confucian concept of *he* (和) that presupposes unity, reciprocity, and mutual respect (Mason, 2022). The specific aspect of mediation that addresses this worldview is the encouragement of dialogue and consensus over the legal rights of an individual. Consequently, the Chinese propensity to ADR in the WTO system cannot be taken out of its Chinese context. Correspondence to principles of harmony characterizes the country, and that is why the principles of relational stability and collective good are prioritized over the choice to win in competition by the law. This theoretical background gives a contextual approach to the way that China has always favoured mediation, and is the basis of explaining the way China approaches dispute resolution behavior in the international scale.

3.2 ADR in the international relations theory

In addition to the cultural views, ADR has significant implications on the international relations where cooperation, diplomacy, and interdependence influence state-relations. Liberal institutionalism theory is one of many theories that highlight the fact that friction is alleviated through collaborative mechanisms, whereby states are able to solve conflict without jeopardizing their overall political or economic relationship (Keohane, 2005). Here, ADR provides a channel of conflict management and protecting diplomatic relations and preserving stable trade situations: this is much closer to the essence of the WTO.

ADR techniques, including mediation and conciliation, facilitate the use of solutions that are based on negotiations and not on zero-sum solutions, which are often the results of adversarial litigation. These processes allow dialogue, compromise and policy flexibility, which are the main features of the theoretical models that emphasize on cooperation rather than confrontation (Adjovu, 2000). By integrating ADR approach

in its strategy, China finds itself in this constructive system that complements a diplomatic approach which lays stress on building relationships rather than resolving disputes.

The harmony-based ADR practices in China thus overlap with international relations theories that consider the dispute resolution as a component of a large system of preserving stability and predictability of international interactions. The inclusion of culturally knowledgeable and diplomacy-based ideals into the institutionalized trade regulation demonstrates how national ideals may influence international conduct. The China experience demonstrates that ADR can play a practical and theoretical role in conflict reduction, as well as a relational diplomacy support, and a long-term collaboration in the WTO. Consequently, its practices can provide an example to develop ADR in international trade institutions especially as the international community is becoming more aware of the necessity of diversified dispute resolution models.

3.3 Research gap

Although ADR in international trade has been widely studied, there have been gaps in the literature concerning the impact of culturally based practices, namely those influenced by the Chinese concept of harmony, on the process of the dispute resolution in the WTO. A good portion of the literature that is available discusses the effectiveness of ADR, and only a handful of them explore the effects of the cultural commitments of China in its preference of mediation or the possible results of conflict in an international context (Nicholson, 2010). Although some studies recognize that China encourages non-litigation (Wang and Chen, 2019), they will, in most cases, fail to examine the underlying cultural reasons behind these decisions as well as the interactions between the principles of harmony and procedural approaches.

The other area that has not been addressed is the wider implications of ADR practices in China to a larger institution such as the WTO. Although researchers have discussed advantages and disadvantages of ADR in general, not much has been given to how the culturally based approach of China could be used in future reforms or enhance a more diversified and relationship-oriented model of dispute settlement. The current literature is more inclined towards legal systems or economics, and very little has been

done on how cultural systems influence the norms and practices of inter-border dispute resolution.

This paper tackles these gaps by examining the impact of the harmony-focused ADR philosophy in the way China is currently interacting with the WTO dispute settlement system and by estimating the degree to which the practices can be used as a model of institutional reformation. In this regard, it helps to achieve a further insight into the intersection of culture, diplomacy, and international economic governance, providing the insights that have not been properly addressed by the current scholarship.

4 METHODOLOGY

4.1 Research design

The research design used in this research is qualitative and explores the issue of how China has incorporated the practice of mediation and non-litigation in its dispute-resolution strategy in the WTO. The qualitative approach especially help in studying context-related problems, particularly those which are influenced by cultural values, political factors, and institutional actions. Since the practices of ADR in China are intertwined with philosophical traditions and changing legal frameworks, a qualitative approach enables one to gain a better insight into how these two variables intersect (Pathak et al., 2013).

The study relies on various types of documentary data, such as the official reports of WTO disputes, the Chinese governmental policy, the legal sources connected to mediation, and the peer-reviewed academic sources. All these sources together allow to examine not only the procedural peculiarities of the Chinese ADR practices but to understand the hidden cultural values, which are reflected in the process of decision making, like in harmony. This design enables a comprehensive exploration of the ways that China realizes ADR in an international legal context which is highly formalised through the detailed analysis of the discourse, language of policies and the results of cases.

4.2 Systematic literature review (SLR)

To provide a solid base on the analysis of ADR practices of China, systematic literature review has been included in the study. SLR is used to guarantee a clear and repeatable method of finding and synthesizing the existing research which would be applicable to ADR, harmony, and WTO dispute settlement (Nightingale, 2009). The review is based on the PRISMA guidelines, according to which the process may be divided into the identification and screening stages, eligibility evaluation, and ultimate inclusion (Galeazzi et al., 2008).

The major academic databases such as JSTOR, Google Scholar, and Wiley Online Library have been searched. The keywords used to find the related publications were: China ADR, WTO dispute resolution, devolution, mediation, non-litigation, harmony in legal systems, and others. The search at the beginning of the paper yielded a wide range of works. Having eliminated duplication of records and narrowed down after screening titles and abstracts, around 50 studies were left to undergo initial screening.

The full-text screening of the papers was then conducted and 30 articles passed the eligibility test and were to be assessed in detail. Out of those, 8 studies were shortlisted to be finally included in the study on the basis of quality research, suitability to the research questions, and relevance to the conceptual focus on harmony-oriented ADR. These researches were the central data of the thematic analysis.

4.3 Inclusion and exclusion criteria

The following table gives the criteria that were taken to include the sources in the SLR. All these conditions made sure that only the studies that were pertinent to ADR practices in China, WTO setting, and the conceptual theme of harmony were used.

Table 1*Inclusion and Exclusion Criteria*

Criteria	Inclusion	Exclusion
Publication Type	Peer-reviewed journal articles, academic book chapters	Non-academic sources, newspapers, blogs, general opinion pieces
Publication Date	2000–2024	Works published before 2000
Focus on ADR Practices	Studies that examine ADR, mediation, or non-litigation within the Chinese or WTO context	Studies limited to technical legal issues unrelated to ADR
Cultural Context	Research discussing harmony, cultural influences, or philosophical foundations	Studies without cultural analysis or minimal relevance to Chinese context
Geographical Focus	China's practices in WTO or international dispute settings	Studies unrelated to China or not linked to WTO dispute settlement
Language	English-language publications	Non-English texts
Relevance to WTO	Works addressing ADR within WTO mechanisms	Studies focusing on domestic disputes outside trade contexts
Empirical/Theoretical Contribution	Empirical or conceptual work offering substantive insights	Studies lacking depth, analysis, or relevance
Quality and Rigor	Studies meeting PRISMA-guided screening standards	Low-quality studies or those failing relevance checks

4.4 Data analysis

The chosen literature was examined with the help of the thematic analysis method to determine the frequency of concepts connected to mediation, harmony, and the results of the process of the dispute resolution. This procedure developed in a number of systematic stages:

4.5 Identifying relevant data

The initial one was to read the chosen studies and identify the passages on ADR practices, cultural factors, and mediation assessments in the WTO. The statements concerned harmony, styles of negotiation, flexibility with regard to processes, and outcomes of disputes were to be checked further.

4.6 Classification of data

Passages were extracted and put into conceptual groups. An example is that practices that were culturally inspired were classified as grouped under the category of Harmony in ADR, whereas procedural observation was placed under the category of Effectiveness of Mediation. This move gave an insight on the interrelationship between various factors.

4.7 Theme identification

By comparing among the categories, three large themes were revealed:

1. The introduction of mediation in the WTO mechanisms in China.
2. Harmony as a cultural value that creates dispute behavior.
3. Comparison of non-litigation and litigation effectiveness.

These themes are directly related to the research questions and gave the format to the Findings section.

4.8 Theme refinement

All themes were looked into so as to make them coherent, relevant and in line with the objectives of the study. Duplicating or indistinct points were narrowed down, such that every theme would be significant to the explanation of ADR strategies in China. Such systematic refinement enabled the research to condense clear trends using varied sources.

4.9 Ethical considerations

The research process was ethically upright. Since the research is fully based on the publicly available documents, academic sources, and official records by the WTO, no human subject or confidential information was involved. However, precautions were taken not to interpret the sources wrongly, misrepresent, and to talk in a neutral way, most of the time when writing about culturally sensitive issues like harmony.

The SLR was carried out in a transparent way and PRISMA-congruent processes guaranteed accountability in the processes of literature selection and analysis. The entire interpretation of WTO cases and Chinese legal texts, as well as scholarly materials, was based on the original text and no proprietary information was utilized. The research also took care not to be culturally prejudiced as the contextualization of the harmony was done in terms of its philosophical and historical context and not through exerting outward judgments.

5 FINDINGS

Table 2

Selected Studies for the Research

Study	Key Findings	Relevance to Study Objectives & Themes
Ertürk & Gabor (2017)	China has actively promoted mediation as part of WTO dispute resolution since 2001.	Supports China's proactive role in ADR and mediation.
Shaffer & Gao (2018)	China utilizes mediation to facilitate trade dialogue and maintain stable relations.	Relates to the implementation of mediation in WTO dispute resolution.
Du & Peng (2024)	China's 2002 agricultural dispute with Japan was resolved through mediation, preserving diplomatic ties.	Demonstrates the practical effectiveness of mediation over litigation.
Xiao et al. (2024)	China advocates for mediation in WTO dispute resolution reforms to enhance flexibility.	Links to China's role in promoting ADR mechanisms and WTO policy changes.
Zhao (2022)	China's emphasis on mediation indirectly encourages other nations to consider ADR as a viable dispute resolution mechanism.	Explores China's mediation model influencing WTO dispute resolution practices.
Chen (2022)	Mediation contributes to a more diversified WTO dispute resolution framework.	Relates to the broader theme of ADR diversification within the WTO.
Li (2006)	The Confucian ideal of 'he' (和) emphasizes collective interests over individual rights, influencing China's ADR approach.	Explains the cultural basis for China's emphasis on harmony in dispute resolution.
Moore (2014)	Mediation offers procedural flexibility compared to litigation, allowing for more tailored dispute resolutions.	Supports the argument for mediation's adaptability in dispute resolution.

5.1 Theme 1: implementation of mediation in China's WTO dispute resolution

The interactions of China in mediation and other non-litigation strategies in the WTO is a strategic decision that can be traced to both the cultural desire and diplomacy. China has been encouraging the use of mediation as a route to solving trade conflicts

since it was admitted into the WTO in the year 2001, and it has been keen to avoid confrontation but rather dialogue in resolving trade disputes. Experts like Leyshon et al. claim that the China has been a firm advocate of mediation because it wants to inculcate the culture of cooperation in mediation as litigation has traditionally ruled. By engaging in mediation, China will establish an environment in which parties will be able to express themselves freely, resolve their issues and find solutions that will be accepted by both sides (Shaffer and Gao, 2018). This is in line with the wider WTO concern of diversifying dispute settlement schemes other than the panel decision.

One notable case is the agricultural products conflict between China and Japan in 2002. Instead of going to adversarial litigation, the parties chose arbitration and mediation-type interaction and provided the opportunity to resolve the problem on a mutual basis and not ruin their trade relations (Wto.org, 2024). The case showed the ability of mediation to offer a mediating platform through which diplomatic stability and economic continuity can be viewed. As Du and Peng (2024) point out, mediated approaches can enable states to devise solutions that fit into the underlying interests of both parties- something that is not easily realized in a rule-based litigation.

The tendency of China to ADR is also reflected in its involvement in the WTO talks and policy formulations. The nation has persistently pushed the more potent mediation clauses in the Dispute Settlement Understanding and pushed towards changes that foster adaptable, constructive, and relationship-friendly strategies (Xiao et al., 2024). These attempts are the sign of China commitment to the redesigning of the global trade governance through the promotion of non-litigation rules and the encouragement of the other states to use mediation as the legitimate and effective instrument. According to Zhao (2022), this advocacy has been slowly changing the perception of ADR in the WTO, with the effect of a wider acceptance of the non-litigation processes.

This is because China has always preferred mediation as part of its two-fold mission of protecting its economic interests and ensuring that it does not jeopardize its diplomatic relationship. Through selecting engagement channels that can lower tensions and eliminate a public confrontation, China strengthens its long-term strategic relationships and coordinate its behavior in dispute with its economic priorities (Wto.org, 2024). Consequently, this practice by China has helped advance the current

diversification of the WTO dispute settlement system, in favour of a move towards less adversarial proceedings to more co-operative dispute solutions (Chen, 2022).

5.2 Theme 2: ADR cultural principle of harmony

The cultural value of harmony has taken central place in defining the dispute resolution strategy in China especially in terms of its favoring mediation in WTO. The concept of harmony as the Confucian and Taoist traditions have conceived it is more focused on the balance, cooperation and sustaining social relations. This worldview can be seen in the ways that china approaches conflict management with the main emphasis being laid on the solutions that are relationship strengthening rather than relationship disrupting (Yao, 2000). The mediation process can be comfortably incorporated into this philosophical background as it promotes respectful communication and compromise as opposed to the adversarial approach to litigation.

The use of harmony-based ADR was particularly conspicuous in the mediation option of China over a dispute with Japan over steel products in 2002. Instead of the adversarial panel procedures that most countries adopted, China adopted mediation, which indicates that it was willing to resolve disputes in a manner that would not disrupt the diplomatic goodwill but would reduce the possibilities of any tensions (Wto.org, 2024). This situation demonstrates how the values culturally instilled help steer China into more compromising paths which bring about both parties saving face as well as keeping the cooperation long-term.

Harmony also dictates domestic legal culture, along with the discourse of politics in China. The win-win outcomes and the development of a stable relationship are often regarded as the most important factors of the economic and diplomatic policy by the government (Lanteigne, 2019). These values are closely connected with the Confucian notion of he (和) in which the greater good and relationship harmony takes precedence over individual rights or competitive capabilities (Li, 2006). Hence, it is not only a procedural matter but the culture of acclimatized consensus and compromise that makes China inclined towards mediation.

This ADR approach that is based on culture influences the Chinese stance in the global trade rules by showing how harmony can be employed in the global dispute resolution. It presents an alternative paradigm, the paradigm that is more focused on communication and relational permanency rather than legal success. Bell and Ham (2003) elaborate that framework of harmony development creates a context in which cooperation prevails, which may radicalize the approach of states to the multilateral institutions towards conflict.

5.3 Theme 3: The effectiveness of non-litigation vs. litigation

The fact that ADR has relative advantages to the traditional WTO litigation system comparative to others strengthens the inclination of China towards ADR. The mediation is more flexible, faster, and less adversarial in tackling the trade disputes. Litigation, on the other hand, is usually very procedural, very expensive in terms of litigation, and may take several years to settle (Nolan-Haley, 2012). Trade dispute is a time-sensitive issue, so mediation is especially appealing, as it allows countries to minimize uncertainty and disruption of the economy.

The trendy example is a recent trade conflict between Australia and China, during which mediation allowed the disputants to find a middle ground without the risk of escalation and the loss of a vital trade relationship (Wto.org, 2024). These instances illustrate how non-litigation can defuse a politically sensitive matter and is able to prevent the reputational and economic costs which accompany the formal adjudication in certain instances. Creative solutions, specific to each case and unique situation of the case, are also available with mediation which is flexible and unlikely to be provided with rigid cases ruled by panels (Moore, 2014). This flexible and adaptive style of resolving disputes is aligned with broader trends in global regulatory reform, where rigid litigation structures are increasingly complemented by cooperative mechanisms to manage complex economic relations (Ertürk & Gabor, 2017).

In as much as mediation is less enforceable compared to a binding legal ruling, China counters the disadvantage by basing the results of the disputes on trust and relationship promises. Mediation is not only feasible but also extremely efficient in those conditions when it is more important to preserve long-term relations than impose fines.

These dynamics are consistent with the Chinese style of diplomacy, which emphasizes building of relationships, as opposed to the application of the law.

In this way, litigation cannot be denied in the cases where the authoritative interpretation of the law is needed, but the advantages of non-litigation over it (speed, flexibility, lower cost, and relationship saving) contribute to the growing significance of ADR in the WTO context. The benefits of consistency in using mediation by China also reflect positively on it and show the potential of extending it across member states.

6 DISCUSSION

6.1 Interpretation of findings

This research indicates that the practice of alternative dispute resolution, particularly mediation in China is a product of a combination between cultural values, diplomatic policy and pragmatics in the international trade governance. The initial theme presented that China is active in terms of advancing mediation as a productive device of WTO dispute settlement. Rather than treating ADR as an addition or peripheral service, China sets it as a necessary channel of communication and mutual problem solving. This is a direct response to the first research question where China uses mediation in terms of policy advocacy, choice of strategic cases as well as actively participating in the reform talks in WTO.

The second theme highlighted the role of cultural values especially harmony in informing the behavior of the Chinese in terms of dispute. Confucian principles of cooperation, balance and relation respects offer a philosophical explanation of why China favors non-confrontational solutions. This cultural aspect does not only percolate into the domestic sphere of governance but also into the way China conducts itself in the multilateral arena which mandates its culture of using mediated deals instead of litigation (Bell and Ham, 2003; Yao, 2000). The results depict that the principle of *he* (和) influences the way that China reacts to conflicts so that the results will not weaken long-term diplomatic relationships or business liaisons.

The third theme made parallels between mediation and the classic WTO litigation to show that non litigation can be more efficient, flexible and relationship preserving. Demonstrated in several conflicts as well as in the recent examples of Australia, mediations provide timely solutions at a reduced number of political and financial expenses. Such benefits conform quite well to the overall diplomatic stance of China and the growing concern of the WTO to promote various dispute resolution mechanisms (Daniels, 2013; Rautakivi and Yolles, 2024; Womack and Hao, 2015). Combined, the results suggest that the mediation-driven practice of China has a positive contribution to the development of the WTO dispute resolution and provides a pattern to be followed to put more emphasis on the goal of stability, cooperation and flexibility of the procedures.

6.2 Theoretical implications

The research paper provides various theoretical contributions by depicting how the conduct of the states in international organizations can be influenced by cultural principles. The Confucian and Taoist heritage, as the essence of harmony, turns out to be more than a cultural value, a directive logic according to which China operates regarding ADR. This is as opposed to legalistic, rights based approaches that are more aligned to the western frameworks. Through its use of harmony-based model, China also dispels the conventional beliefs about dispute resolution in international economic law and also emphasizes on how cultural diversity plays in the institutional practice.

This lends credence to more theoretical approaches to international relations that focus on relational diplomacy, cooperative engagement and non-adversarial management of conflict. The example of China shows that introducing cultural norms can enrich the process of making decisions in institutions and increase the conceptual scope of ADR. The harmony-oriented strategies can be used to change the paradigm of approach to resolving disputes, focusing on relational preservation instead of punitive results, which is consistent with the current academic discourse of adaptive and culturally responsive governance forms (Zhu, 2020). By so doing, the practice of ADR in China is an example of how culturally informed ADR may supplement and add to rule-based frameworks such as the WTO.

6.3 Implications on policy and practice

This has important implications to the policy makers and the practitioners in the WTO system. The continued application of mediation by China is an indication of the possibility of expanding the WTO to include the dispute settlement procedure to deal with the long-standing issues of delays in litigation, the plugging of the processes, and the adversarial nature. By other member states adopting similar ADR-based approaches, WTO will have to have fewer cases in the backlog, flexibility and amicable cases resolution. This can especially be useful to small states or states with small resources that cannot afford the costly law suits.

Further on, the Chinese model also offers a highly enlightening example of how the concept of relationship saving under the formal trade governance can be integrated. The WTO has a broader purpose of promoting mutually advantageous trade relations which are predictable, which also coincides with the principles of mediation; they are cooperation-oriented, and diplomatic stability. The training of ADR, growth of mediation at the institutional level and amendment of the dispute settlement procedures would contribute towards ensuring that the WTO embraces more dispute settlement instruments. Not only would such reforms assist in streamlining the effectiveness of the processes, but it would also lead to the reinforcement of the negotiation and dialogue culture in the organization (Jones, 2023).

In the diplomatic arena, the strategically diplomacy-oriented approach of China puts China in a superior position of being a mediator of collaborative resolution of conflicts. Incorporating the cultural values within the international behavior, China creates an image of the positive partner, who could strike a balance between the law and the relational diplomacy. This makes it stronger in multilateral trade environment and a different paradigm to the members who desire to seek methods of dispute settlement that do not rely on legalism solely (Scott & Wilkinson, 2017).

6.4 Recommendations

It involves several policy and institutional steps which are needed to spearhead the integration of harmony-based ADR practices into the WTO dispute settlement system.

Other collaborative member states like China can contribute significantly to the realization of reforms that would make mediation and conciliation more popular tools in the process of governing global trade. By improving the position of ADR within the institution, we would not only have a more adequate choice of possibilities in relation to solving disputes, but also would have more collaborative and less confrontational relationships between the WTO members.

Revising the WTO Dispute Settlement Understanding (DSU) is one of such significant steps, and the direct statement regarding making ADR more central is to be made. Procedural requirements and structured mediation would make the members consider alternative ways of resolving disputes other than going to panels or the Appellate Body. This change would help normalize the use of the mediation and increase the confidence in its ability to produce stable outcomes.

Capacity-building programs can also be used to promote the adoption of ADR. The training and workshops on WTO staff, trade negotiators and diplomats would merely provide a training orientation on the important players to culturally sensitive mediation methods, including those that are founded on the harmony-based approaches. These would create a more understanding of the contribution that ADR can make to the supplementation of the existing legal system to give the stakeholders the capacity to successfully incorporate mediation into the dispute processes.

China and other like-minded nations can also contribute to constituting institutional units or expert panels in WTO that specifically relates to ADR. These organizations would facilitate services of guidance, technical assistance, and facilitate mediation so that it is available and professionally conducted. The WTO might be able to solve the issue of resistance by institutionalizing ADR expertise, where member countries who might be reluctant or not aware of non-litigation solutions might be approached.

A robust ADR system would provide the WTO members (especially the small and developing economies) with a more confidence to engage in the dispute settlement without the economic cost and the political risk of litigation. It would also create a negotiation and cooperation culture more in keeping with the global trade that is becoming more interconnected. The case of harmony based approach of China would provide an example of how cultural values may be used in enhancing multilateral conflict

resolution efforts and implementing analogous values may cause the WTO to develop a simpler, more accepting and effective system of dispute resolution.

6.5 Limitations and future directions

The main sources used in this study are publicly available WTO case summaries, scholarly literature, and Chinese government policy documents, which makes the study slightly limited in the depth of the research. Due to the confidentiality of WTO dispute procedures, the research was unable to obtain internal records of negotiations or elaborate negotiations that could provide more information on how ADR is implemented in reality. Consequently, only documents available can be analysed and not based on personal accounts or personal observation of dispute resolution procedures. Also, the excessive use of the secondary literature implies that the results can be affected by how the former researchers have defined ADR practices in China, which is not necessarily representative of the complete spirit of decision-making in the WTO framework.

The other limitation is that the study concentrated on China alone. Although this method gives a focused insight about the culturally informed ADR practices in China, it does not allow one to generalize the results to other WTO members who may have different legal traditions, political systems and cultural values. Other countries which have adopted an adversarial system of lawmaking or are very dependent on the use of binding precedents may place ADR with a different perspective and it will be hard to get the results of this research to the general members of the WTO. Additionally, the lack of paralleling comparisons with other cultural models restricts the analysis of harmony-based dispute behavior to comprehend the way that the Chinese practices could fit in the broader context of global dispute resolution.

As a way of filling these gaps in research, the future study might use interviews with trade officials, mediators, or legal practitioners who have worked in the WTO dispute directly. Such primary data would give a better understanding of the procedural decision taken by China and other states and practical issues of applying ADR to a formalized multilateral system. A comparison of China and the other leading groups of the WTO members, including the United States, European Union, or emerging

economies, would also be more informative as it would help pinpoint the differences in preferences regarding dispute settlement by cultural and institutional factors.

It can also be expanded on the implication of ADR on smaller or emerging economies, which usually experience barriers in the form of finances and legal impediments when seeking a courtroom. Assessing the possibility of mediation as a more convenient and fair avenue of these nations can be a valuable source of advice in reforming the WTO in the future. Moreover, comparative studies of the results of disputes in different countries may assist in finding out in which circumstances ADR can be considered the most successful and whether the harmony-oriented could be modified or mixed with other culturally oriented models of conflict management.

Future research can contribute to a better knowledge base of how ADR operates in the WTO, and how culturally-aware strategies, like the harmony-based model that China uses can help to create more flexible, inclusive, and cooperative dispute settlement, by further research outside of China and inclusion of more primary data.

7 CONCLUSION

This paper has studied the way in which China dealt with alternative dispute resolution in the WTO system and specifically the way in which mediation and other non-litigation practices are a manifestation of the culture as well as the strategic interest. The discussion revealed that the Chinese interest in ADR has a long-standing tradition in the focus in harmony, which is a concept borrowed out of the Confucian philosophies that focus on cooperation, balance, and pursuing the sustenance of the stable relations. The existence of these cultural values has a direct impact on the way China favours the dialogue-based, non-adversarial form of dispute resolution as an alternative to the more strict and confrontational aspects of conventional litigation.

Such instances like the agricultural and steel conflicts involving Japan showed how mediation could deliver timely, flexible and relationship-saving results that would have been difficult to bring under the legal process. Choosing mediation, China succeeded not only in saving its economic relations, but also in proving the diplomatic style of negotiations, focusing on the principles of accommodation and mutual gain over the law.

This would be in line with the general interests of the WTO since it seeks to instill certain predictability and stability in global trade relations.

The findings also show that the harmony-based model of ADR in China can teach the WTO dispute settlement a few significant lessons in the future. As the organization is still stressed because of the delays in the processes, the Appellate Body grinds, and geopolitical issues are on the increase, the creation of more flexible and collaborative dispute mechanisms can be applied to create a more resilient and more diverse system. China has suggested mediation severally and this signifies that culturally aware practices could be employed to empower multilateral institutions and create good interaction among the members.

On the prospective front, the increased application of ADR and specifically, mediation could help the WTO reduce the adversarial aspects, make it more accessible to the smaller economies and enable it to become more competent in terms of overall dispute resolution. The Chinese experience will be an example of how the non-litigation practice can complement the official legal practice and come up with a climate of a more inclusive and peaceful world trade. As the WTO continues to debate on its reforms, the Chinese model can be an exciting reference field to member countries that would like to have more balanced and relationship oriented approaches to conflict management. To sum up, the emphasis on harmony and non-confrontational solutions can provide an informative clue as to how the international economic governance can become more collaborative in the future.

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All authors contributed equally to the development of this article.

Data availability

All datasets relevant to this study's findings are fully available within the article.

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