TURKEY AS A WTO LITIGANT: A CASE OF WAIVED LEVERAGE AND MISMATCHED POLICY ENDS AND MEANS

JUSCELINO F. COLARES AND MUSTAFA T. DURMUŞ*

ABSTRACT

This Article analyzes Turkey’s involvement in the World Trade Organization’s (“WTO”) dispute settlement system to determine whether litigation has helped or could help Turkey attain its trade policy objectives. After identifying these objectives and conducting an empirical analysis of Turkey’s participation in 113 disputes—as Complainant, Respondent and interested Third Party—we conclude that litigation has not played a significant role in advancing Turkey’s trade objectives. Next, we ascertain the extent to which litigation’s de minimis impact stems from: (i) limitations inherent to WTO litigation (e.g., prospective-only remedies, bilateral focus, etc.); and/or from (ii) Turkey’s diminished ability to sue its biggest trade partners and competitors, some of which remain non-WTO Members or are in the European Union, Turkey’s senior customs union partner. The Article concludes with a call for Turkey to embark on a renewed push for further trade liberalization, which will require reforming the current EU-Turkey trade framework. (JEL: F13, F53, K41).

I. INTRODUCTION 868

II. THE WORLD TRADE ORGANIZATION DISPUTE SETTLEMENT SYSTEM 870

III. TURKEY’S LITIGATION PERFORMANCE AT THE WTO 872
A. Data and Methods 872
B. Turkey’s Performance as Complainant 875
C. Turkey’s Performance as Respondent 876
D. Turkey’s Performance as Third-Party Litigant 878

IV. RELATIONSHIP BETWEEN TURKEY’S TRADE OBJECTIVES AND LITIGATION PERFORMANCE 882
A. Red Flags on the Intermediate Goods Front 883
B. Benign Export Measures? 883

* Address correspondence to Juscelino F. Colares, Schott-van den Eynden Professor of Business Law and Professor of Political Science, Case Western Reserve University; email: colares@case.edu. Mustafa T. Durmuş is Assistant Professor of International Trade Law, Muş Alparslan University, Turkey; email: mt.durmus@alparslan.edu.tr. © 2020, Juscelino F. Colares and Mustafa T. Durmuş.
I. INTRODUCTION

Turkey is an upper-middle-income country with a mostly young population exceeding eighty-one million.¹ Geographically unique, Turkey serves as a “bridge” between the East and West and has a dynamic, diversified, and open economy, with a large private sector. The seventeenth largest economy in the world with a GDP of $851 billion (2017),² Turkey faces challenges common to sizeable middle-income countries, like Brazil, Mexico, and Russia—where social and economic conditions lag behind more advanced economies. Yet, unlike these countries, Turkey experiences high perennial trade and current account deficits.³

When a country runs current account deficits, it must find external sources of financing, such as borrowing, greater foreign direct investment, and short-term capital inflows.⁴ Turkey has experienced current account deficits for decades, but has managed (mostly) to find external sources to finance them.⁵ However, reducing the trade deficit—the main item in Turkey’s current account deficit—has always been a

---

¹ See IMF, Turkey: 2017 Article IV Consultation—Press Release; Staff Report; and Statement by the Executive Director for Turkey, IMF Staff Country Report 17/23, 1 (Feb. 2017).


³ Generally, a country’s “current account” captures the balance of trade-transaction income (e.g., income from exports and imports of goods and services), property income (e.g., payments or receipts of royalties and other rents), and gifts, received or remitted. Because, historically, Turkey has run trade deficits that exceeded net property income and gifts (despite substantial expatriate remittances from abroad), Turkey has also run perennial current account deficits. For further discussion on balance of payments see RAJ BHALA, DICTIONARY OF INTERNATIONAL TRADE LAW 90–92 (2d ed. 2012).


difficult challenge. In fact, Turkey’s trade deficit in goods has gone uninterrupted since 1946. The export-import ratio has fluctuated between .521 and .757 in the last two decades. This ratio was .753 in 2018. Yet, as trade has expanded since Turkey’s last major crisis (2001), its trade deficit has increased and, thus, its current account deficit.

To reduce both trade and current account deficits, Turkey has set two major trade policy goals: (i) reducing import dependency; and (ii) expanding exports while diversifying its portfolio of export destinations. Despite conspicuous state involvement in managing imports (for example, imposition of import licensing requirements, application of antidumping remedies, etc.) and in promoting exports (for example, granting small export credits via EximBank, bestowal of agricultural export subsidies), Turkey has only rarely been the target in WTO dispute settlement proceedings.

This Article offers a thorough analysis of Turkey’s involvement in the entire range of WTO litigation—as Complainant, Respondent, or interested Third Party—and explains why WTO adjudication was neither designed for nor could be effective in helping Turkey address its perennial trade challenges. Some major clues lie in Turkey’s neighborhood profile and restricted trade autonomy, both of which significantly curtail the benefits of litigation, particularly, as a trade policy tool for Turkey.

Section II briefly examines the operation of the WTO dispute settlement system. Section III lays out the study’s methodology and briefly summarizes Turkey’s litigation performance, and Section IV examines whether WTO litigation has helped Turkey address its trade policy objectives. Because Section IV concludes that this has not been the case, Section V analyzes the extent to which such de minimis impact

---


7. See id.

8. See id.


10. See WTO Secretariat, Trade Policy Review of Turkey, WT/TPR/S/331 11, 66–70 (Feb. 9, 2016) [hereinafter Turkey TPR 2016].

11. See id. at 87–89, 126–40.

stems from: (i) limitations related to litigation itself (e.g., remedial nature, bilateral reach, etc.); and/or from (ii) Turkey’s diminished ability to sue its neighbors (most of which are non-WTO members) and the European Union (Turkey’s senior customs union partner). The Article concludes with a call for Turkey to embark on a renewed push for further trade liberalization, which will require reforming the current EU-Turkey trade framework.

II. THE WORLD TRADE ORGANIZATION DISPUTE SETTLEMENT SYSTEM

Among the WTO’s major achievements is the establishment of a rules-based trade order with an accompanying dispute settlement system, the Dispute Settlement Body ("DSB"), a mechanism designed to further “multilateral trade cooperation,” and, when necessary, provide a forum for litigation.13 Members are expected to comply with the WTO agreements.14 If a Member acts inconsistently with its WTO commitments, another Member whose “benefit . . . is being nullified or impaired” by such inconsistency can use the DSB to seek redress.15 The DSB is specifically regulated under the Dispute Settlement Understanding ("DSU"),16 a compendium of rules that, among other things, authorizes the DSB to “administer [all] rules and procedures” applicable to all Members.17 DSU Article 2 provides that the DSB has “the authority to establish panels, adopt panel or Appellate Body reports, maintain surveillance of implementation of rulings and recommendations, and authorize suspension of concessions . . .” in cases of non-compliance.18 Therefore, despite the fact that only Members can adopt binding interpretations,19 the DSB exercises de facto supreme authority over decisions that bind WTO Members.20


17. Id. art. 2.

18. Id. art. 2.1.


Dispute settlement under the DSB may involve four major phases. First, an “aggrieved Member” may request consultations. The Member to whom a request for consultations is made shall respond within ten days and shall enter into such consultations in good faith. Should such a Member fail to respond “within 10 days”, fail to enter consultations within thirty days, or should both parties “fail to settle the dispute within 60 days,” the Member who requested the holding of consultations may request the DSB to form a panel.

Second, pursuant to a Complainant’s request, the DSB establishes a panel. Members with a “substantial interest” in a given dispute may request to participate as Third Parties, and the DSB invariably accommodates such requests. Panels are expected to rule on the dispute and submit final reports within six months, yet the time for deliberations may be extended, as necessary. Once submitted, the panel report shall be adopted by the DSB within sixty days, unless the losing Member (Respondent or Complainant) decides to appeal the report, or all Members, by consensus, agree not to adopt it.

Third, should there be an appeal, the Appellate Body (“AB”), whose decision is final, “may uphold, modify or reverse the legal findings and conclusions of the panel.” As with un-appealed panel reports, AB reports “shall be unconditionally accepted by the parties” and shall be adopted by the DSB, unless all Members decide, by consensus, not to adopt them.

22. GATT 1994, supra note 15, art. XXII.
23. See DSU, supra note 16, art. 4.3.
24. See id., arts. 4.3–4.7. Note that the time period might differ in case of urgency (e.g., perishable goods). See DSU, supra note 16, arts. 4.8, 4.9.
25. See id., art. 6.1. Panel members are elected by their qualities among international trade scholars, former senior trade policy officers, etc. See DSU, supra note 16, art. 8.1.
26. Id., art. 10.2.
27. Id., arts. 12.8, 12.9.
28. Id., art. 16.4.
29. The Appellate Body is a standing body composed of 7 members nominated for potential, once-renewable four-year terms. See id., arts. 17.1, 17.2.
30. Id., art. 17.13.
31. Id., art. 17.14. That the Appellate Body ceased operations in December 2019 does not mean dispute settlement work has stopped at the WTO. Panels can still be formed and function, as before. Though important, this development might be seized as an opportunity for regional dispute settlement systems to take on a greater role in trade adjudication going forward.
Fourth, and finally, any eventual losing Respondent is required to implement final panel or AB recommendations. Ordinarily, the losing Respondent must comply with the recommendations of the panel or AB report within a reasonable time. 32 In cases where immediate withdrawal of Respondent’s inconsistent measure is impracticable, that Member is expected to provide compensation to the successful Complainant. 33 Should such Member fail to comply with the recommendations in a timely fashion or provide compensation, the Complainant may request consultations to reach a mutually agreed compensation. 34 If the parties fail to agree on a mutually acceptable compensation or disagree on whether the violating Respondent has complied, the Complainant may request authorization to suspend concessions against the non-compliant, recalcitrant Respondent. 35 As of August, 2019, WTO Members had resorted to the DSB 586 times. 36 Turkey was involved in 113 disputes. 37 The following section provides a review of Turkey’s litigation performance under the DSB.

III. TURKEY’S LITIGATION PERFORMANCE AT THE WTO

Before summarizing Turkey’s litigation performance, subsection A provides a note on this Article’s data and methodology. The nonempirically inclined reader may skip to subsection B.

A. Data and Methods

WTO website data show that, since DSB began operations in 1995, Turkey has been involved in five cases as Complainant, twelve cases as Respondent, and ninety-five cases as Third Party, totaling 112 cases or over nineteen percent of all disputes. 38 However, WTO data fails to account for one case: United States—Measures Concerning the Importation of Carbon-Quality Steel from Russia, WTO Doc. WT/DS258 (Aug. 12, 2019), https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds586_e.htm. The data is current as of August 7, 2019, and the most current case at the WTO DSB could be found at United States—Anti-Dumping Measures on Carbon-Quality Steel from Russia, WTO Doc. WT/DS258 (Aug. 12, 2019), https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds586_e.htm.

32. See id., art. 21.3.
33. See id., art. 3.7.
34. See id., art. 22.1.
35. See id., art. 22.2.
38. See id. The data is current as of August 2019.
Marketing and Sale of Tuna and Tuna Products.\textsuperscript{39} Turkey participated in the \textit{US–Tuna} panel proceedings but decided to withdraw its Third-Party appearance at the appellate stage.\textsuperscript{40} Thus, Turkey was a Third-Party litigant ninety-six times, and was involved in a total of 113 disputes.

Although nominally involved in 113 cases, some of these are double counted. Pursuant to DSB Article 9.1, “more than one Member \[may\] request[,] the establishment of a panel . . . \[on\] the same matter,” and the DSB may form a single panel for more than one request.\textsuperscript{41} To illustrate, in 1996, Hong Kong, China, India, and Thailand separately requested consultations with Turkey on the same subject matter, namely Turkey’s restrictions on imports of textiles and clothing.\textsuperscript{42} However, Hong Kong, China, and Thailand decided to participate as Third Parties in the dispute initiated by India.\textsuperscript{43} Although the WTO database reports Hong Kong’s, China’s, and Thailand’s filings as still “in consultations,” the claims raised in the India-prosecuted case—a dispute in which these three countries appeared as Third Parties—are substantially the same and were adjudicated in that case, making their original filings, effectively, data aberrations. In another example, the European Union, Japan, South Korea, China, Switzerland, Norway, New Zealand, and Brazil requested the establishment of a panel regarding U.S. safeguard measures on imports of certain steel products in 2002.\textsuperscript{44} Turkey also reserved its third-party rights in all (eight) disputes


\textsuperscript{40} See id., ¶ 7.

\textsuperscript{41} See DSU, supra note 16, art. 9.1. For a detailed discussion on combining disputes into a single panel, see \textsc{Eun Sup} \textsc{Lee}, \textit{World Trade Regulation: International Trade Under the WTO Mechanism} 320–21 (2012).


\textsuperscript{43} See \textit{Turkey–Restrictions on Imports of Textile and Clothing Products}, WTO Doc. WT/DS34 (July 19, 2001) (Complainant: India).

involving these safeguard measures. Because the DSB established a single panel to hear the dispute by the eight Complainants (plus Turkey and others, as Third Parties) against the United States, Turkey’s eight filings amounted to an appearance in one case, rather than eight.45

There are also eleven other instances where more than one Member requested the establishment of panel, and the DSB decided to establish a single panel.46 Thus, to provide a more accurate count of disputes, we


will consider all disputes decided by a single panel as one even where, nominally, they appear as “separate” cases. After eliminating such instances of double counting, one can conclude that Turkey has been involved in five cases as Complainant; ten cases as Respondent; and fifty-nine cases as Third Party.47

In the following subsections, we assess Turkey’s litigation performance by focusing on the following variables: Case Type, Product Type, Opposing Country, and Win-Loss rate. As explained in a previous general WTO litigation study, these variables allow us to analyze whether differences in the invoked trade agreements (for example, trade-remedy vs. non-trade-remedy claims); types of products affected (for example, commodities vs. non-commodities); or Members challenged (for example, high-income vs. middle-income countries) have affected Turkey’s litigation performance, which we measure by using Turkey’s Win-Loss rate.48 To determine Win-Loss rates under this methodology, a dispute counts as a win for Complainant (and loss for Respondent) whenever Complainant wins on any claim.49 Thus, when litigation effectively changes the status quo ex ante—triggering Respondent’s obligation to bring its violating measure(s) into compliance50—Complainant scores a win (and Respondent, a loss), even if Complainant fails in other claims.

B. Turkey’s Performance as Complainant

A five-time Complainant, Turkey has brought disputes against Egypt (2000), South Africa (2003), Morocco (2016), and the United States (2017 and 2018).51 Because two of these disputes are pending at the

---

47. As the same phenomenon (that is, having one panel hear challenges by or against different Members to a set of measures that share common legal and/or factual issues) may have also occurred in disputes in which Turkey did not participate, we refrain from providing total participation rates for Turkey, because refining the denominator would require eliminating potential double counting for other countries, a task that falls outside the scope of this study.


50. See DSU, supra note 16, art. 21.1.

51. See infra Appendix I, Table A.
Appellate Body, and the other two disputes are still nominally in consultations, to date, Turkey has fully prosecuted only one dispute: *Egypt–Definitive Anti-Dumping Measures on Steel Rebar from Turkey* (2003), which it won.52

Although such a low number of observations does not permit statistical analysis, Turkey’s role as a Complainant appears to reveal two interesting “patterns.” As far as Case Type is concerned, to date, Turkey has filed only trade-remedy claims. These claims appear in three antidumping (“AD”) cases, one countervailing duty (“CVD”) case, and one safeguard case.53 As to Product Type, iron and steel products (i.e., steel rebar, hot-rolled steel, and steel pipe and tube products) were the object of four disputes, while one dispute concerned blankets.54 Notably, Turkey seems focused on undermining other Members’ trade remedy determinations, presumably in an attempt to maintain market access for its commodity and low-tech exports.

Clearly, Turkey has not been a frequent Complainant before the DSB and has not sued the European Union, although, technically, it is not barred from doing so under the terms of the EU-Turkey Customs Union (“CU”).55 Remarkably, Turkey did not use the DSB offensively for a thirteen-year period (2003-16).56 One would expect Turkey, a junior partner in a customs union dominated by a much larger trading block, to be naturally disinclined from adopting an aggressive, independent litigation strategy. Thus, Turkey’s infrequent offensive appearances are no surprise. Perhaps, its newfound interest in bringing cases (starting in 2016) is the more interesting question.57

C. Turkey’s Performance as Respondent


52. In this case, Turkey alleged that Egypt had violated the Anti-Dumping Agreement, arts. 2, 3, and 6; and the GATT, art. X. Although the Panel rejected most of Turkey’s claims since Turkey failed to establish its claims under the Anti-Dumping Agreement, arts. 2 and 3, the panel found that Egypt was in violation of the Anti-Dumping Agreement, arts. 3 and 6. *See Panel Report, Egypt–Definitive Anti-Dumping Measures on Steel Rebar from Turkey*, WTO Doc. WT/DS211/R (adopted Aug. 8, 2002).

53. *See infra Appendix I, Table A.*

54. *See infra Appendix I, Table A.*

55. *See Meltem Saribeyoglu, Dunya Ticaret Orgutu, Gumruk Birligi ve Turkiye [World Trade Organization, Customs Union and Turkey] 276–77 (2010).*

56. *See infra Appendix I, Table A.*

57. Turkey initiated three of its five disputes after 2016. *See infra Appendix I, Table A.*
requested consultations with Turkey, pursuant to GATT Art. XXII.\footnote{58} Because five disputes remain in consultations;\footnote{59} two disputes were settled during consultations, with the parties agreeing on mutually acceptable solutions;\footnote{60} and one dispute is still active (that is, at the panel stage), Turkey has been a respondent in only two disputes before the DSB: \textit{Turkey–Restrictions on Imports of Textile and Clothing Products}; and \textit{Turkey–Measures Affecting the Importation of Rice}.\footnote{61} In both cases, the panel and/or AB found that Turkey’s measures were inconsistent with the WTO agreements, that is, Turkey lost both cases.\footnote{62} Later, Turkey would notify the DSB that it had reached mutually acceptable implementations of report recommendations with India and the United States.\footnote{63} Thus, Turkey maintains a perfect compliance record.

As far as Case Type is concerned, Complainants bringing cases against Turkey raised non-trade-remedy claims (e.g., GATT Arts. I, II, III, and XI claims) in seven out of ten disputes.\footnote{64} Turkey was the target of trade-remedy claims (e.g., one AD and two safeguard challenges) in

---

58. See infra Appendix I, Table B. As explained earlier, Hong Kong and China (i.e., \textit{Turkey–Restrictions on Imports of Textile and Clothing Products}, WT/DS29 (Feb. 12, 1996)) and Thailand (i.e., \textit{Turkey–Restrictions on Imports of Textile and Clothing Products}, WT/DS47 (June 20, 1996)) requested consultations with Turkey, yet those countries decided to participate as Third Parties in the dispute raised by India: \textit{Turkey–Textiles}. We counted these disputes as one despite the fact that they remain in consultations. See infra Appendix I, Table B.

59. See infra Appendix I, Table B.

60. See infra Appendix I, Table B.

61. See infra Appendix I, Table B.

62. In \textit{Turkey–Textiles}, India alleged that Turkey had restricted textiles and clothing imports in violation of the GATT, arts. XI, XIII and XXIV and the Agreement on Textiles and Clothing, art. 2.4. The panel found that Turkey’s measures were inconsistent with the GATT, arts. XI and XIII and the Agreement on Textiles and Clothing, art. 2.4. On appeal, while conceding having taken measures restricting the importation of textiles and clothing, Turkey argued that such measures had been enacted pursuant to the EU–Turkey CU, thus qualifying under the GATT, art. XXIV exception. The panel rejected Turkey’s resort to Article XXIV because Turkey had less restrictive, alternative options (for example, rules of origin) that would meet its CU commitments. As such, Turkey could not claim that “the formation of a customs union . . . would be prevented if it were not allowed to adopt [the challenged] quantitative restrictions.” See Appellate Body Report, \textit{Turkey–Restrictions on Imports of Textile and Clothing Products}, ¶¶ 46, 61, 63, WTO Doc. WT/DS34/AB/R (adopted Oct. 22, 1999). In \textit{Turkey–Rice}, the United States alleged that Turkey’s measures on the importation of rice had violated the GATT, arts. III:4, X:1, X:2, and XI:1; the Agreement on Agriculture, art. 4.2; the Agreement on Import Licensing Procedures, arts. 1, 3, and 5; and TRIMs, art. 2.1. The panel found that Turkey’s measures were inconsistent with the Agreement on Agriculture, art. 4.2 and the GATT, art. III:4. Furthermore, the panel did not address most of the claims raised by the United States on the grounds of judicial economy. See \textit{Turkey–Measures Affecting the Importation of Rice}, Panel Report, WT/DS334/R (adopted Oct. 22, 2007).

63. See infra Appendix I, Table B.

64. See infra Appendix I, Table B.
only three disputes. Again, although the number of cases here is too small, cautioning one against making extrapolations, a seven-to-three, non-trade-remedy-to-trade-remedy ratio is intriguing. When one considers that Turkey has been among the most frequent users of trade remedies, one would expect Turkey to be sued more frequently for alleged misapplication of trade remedies than otherwise. That Turkey’s frequent application of trade remedies seems mostly consistent with its WTO commitments (or at least infrequently challenged) might be an indicator of its fair, rules-based behavior.

In regard to Product Type and Opposing Country, we cannot discern any “patterns.” Complainants challenged orders imposing restrictions on textiles and clothing and related products (for example, cotton yarn) in two disputes. They also targeted orders affecting agricultural products (banana and rice) twice. The remaining challenges focused on orders involving foreign movie pictures, iron pipe fittings, pet food, air conditioners and, more recently, pharmaceuticals. Among Members challenging Turkey’s measures were the United States (three times); India (twice); and a few single-filers: Brazil, Ecuador, the European Union (most recent request for consultations), Hungary, and Thailand.

Thus, Turkey has been involved in nine disputes as Respondent. Six of these disputes were filed before 2005. Since then, Turkey has been involved in four disputes, three of which are in consultations, and one in the panel stage. This record suggests Turkey’s trade policies and actions have been mostly WTO-compliant.

D. Turkey’s Performance as Third-Party Litigant

Because Turkey has appeared seldomly as main Complainant or Respondent, its frequent participation as Third-Party litigant (fifty-nine
disputes) is both intriguing and deserving of closer scrutiny. Table A shows the current status of these disputes. Because two were settled or terminated by the Parties, and twenty-one are still active, a total of thirty-six disputes have been finalized by a panel or the AB and adopted by the DSB. Together with the main Complainants in these cases, Turkey has won thirty-three times, losing in only three instances. Turkey’s success rate in these finalized “Third-Party” cases is quite high: 91.66 percent. Such a high success rate is unremarkable, however. Prior empirical research has showed high Complainant success rates in all WTO substantive litigation (i.e., regardless of Case Type, Product Type, or Respondent Type). According to Colares (2009), Complainants have won about ninety percent of substantive disputes that see final adjudication before the DSB. In broader perspective, Turkey’s Third-Party success merely replicates the major systemic trends found in WTO litigation.

Table A: Turkey as Third Party—Case Status

<table>
<thead>
<tr>
<th>Case Status</th>
<th>N</th>
<th>Win Rate (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>DSB-Adopted Report</td>
<td>36</td>
<td>91.66</td>
</tr>
<tr>
<td>Settled</td>
<td>2</td>
<td>N/A</td>
</tr>
<tr>
<td>Active</td>
<td>21</td>
<td>N/A</td>
</tr>
<tr>
<td>Total</td>
<td>59</td>
<td>N/A</td>
</tr>
</tbody>
</table>

Table B shows that, as Third-Party, Turkey took a keen interest in closely monitoring litigation against high-income countries. Such

---

75. See Appendix II (listing Turkey’s Third-Party appearances). Due to space constraints, this lengthy appendix can be made available upon request to the corresponding author. As we have explained in Section III.A, to account for the commonality of issues of law and fact and to avoid double counting of Third-Party disputes decided by a single panel, we count any grouping of overlapping disputes as one.

76. The cases that were settled or terminated are: United States–Measures Affecting Imports of Women’s and Girls’ Wool Coats, WT/DS32 (Apr. 30, 1996) and European Union–Measures on Atlantic-Scandian Herring, WT/DS469 (Aug. 25, 2014).

77. See Appendix II, supra note 75.

78. See Appendix II, supra note 75.

79. See Appendix II, supra note 75.


countries were the respondents nearly two-thirds of the time (66.10 percent). Turkey appeared in twenty-three such disputes involving the United States\textsuperscript{82} and in eleven such disputes involving the European Union\textsuperscript{83}. As far as middle-income countries are concerned, China was Respondent in six disputes, and Russia in three\textsuperscript{84}. Hoping to gain greater market access for its exports, Turkey has concentrated its Third-Party appearances on challenges against high-income (e.g., the United States, the European Union, Australia, and South Korea) and large middle-income (e.g., China, Russia, and Brazil) countries, presumably because they have larger and more dynamic markets. Together, both groups, appearing as Respondents, account for 93.2 percent of Turkey’s participation as Third-Party litigant\textsuperscript{85}.

\begin{table}[h]
\centering
\begin{tabular}{|c|c|c|}
\hline
Respondent Type\textsuperscript{86} & N (%) \\
\hline
High Income & 39 (66.10) \\
Middle Income & 20 (33.90) \\
Total & 59 (100) \\
\hline
\end{tabular}
\caption{TURKEY AS THIRD PARTY—RESPONDENT TYPE}
\end{table}

As with Table B, Table C contains enough observations to allow some extrapolation. At the outset, one specific trend can be detected: in nearly two-thirds of cases in which Turkey has participated as Third-Party, the Complainants were targeting Respondent’s use of trade

\textsuperscript{82} See Appendix II, supra note 75.
\textsuperscript{83} See Appendix II, supra note 75. Note that Turkey is participating as Third-Party litigant in European Union–Additional Duties on Certain Products from the United States, WT/DS/559 (September 11, 2019), a case in which the United States challenges EU’s unauthorized retaliation against US-imposed Section 232, national security tariffs on steel and aluminium. Although included in our database, this case does not appear in our (electronically available) Third-Party statistics because Turkey was also sued by the United States regarding the same subject matter in a parallel case, namely Turkey–Additional Duties on Certain Products from the United States, WT/DS/561 (September 11, 2019), and it is likely that the DSB will establish a single panel for these and other similar, parallel disputes. Furthermore, because Turkey and the European Union share similar positions in this controversy, Turkey’s Third-Party appearance in this case should not be coded as adversarial to the European Union. See Appendix I, Table B; Appendix II, supra note 75.
\textsuperscript{84} See Appendix II, supra note 75.
\textsuperscript{85} See Appendix II, supra note 75.
remedies. Among these cases, only seven were related to safeguards, while thirty involved AD or CVD challenges. Arguably, Turkey has remained vigilant of other Members’ “misuse” of trade remedies in a proactive attempt to protect its export interests, even when Turkish products are not directly implicated. By monitoring other parties’ anti-trade remedy litigation, Turkey maintains a watchful eye on potential abuse of such disciplines in its direct trade relations. This suggests that Turkey might be following a subtle play-for-precedent strategy in its choice of Third-Party litigation.

**Table C: Turkey as Third Party—Case Type**

<table>
<thead>
<tr>
<th>Case Type</th>
<th>N (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Trade Remedies</td>
<td>37 (62.71)</td>
</tr>
<tr>
<td>Non-Trade Remedies</td>
<td>22 (37.28)</td>
</tr>
<tr>
<td>Total</td>
<td>59 (100)</td>
</tr>
</tbody>
</table>

**Table D** summarizes the interface between Turkey’s appearance as a Third-Party litigant and the types of product involved in such disputes. Along with its fellow Third-Party litigants, Turkey joined disputes where the main Complainant(s) challenged orders affecting commodities and mature-industry products almost ninety percent of the time. Among such products, the main targets were: iron and steel products (eleven disputes); automobiles and auto parts (nine disputes); agricultural foodstuffs (ten disputes); and textile and clothing products (six disputes). Notably, Turkey is an exporter of all such products, which, again, illustrates its concern with ensuring market access even when its products are not targeted by other importers’ (challenged) measures.

**Table D: Turkey as Third Party—Product Type**

<table>
<thead>
<tr>
<th>Product Type</th>
<th>N (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Commodities</td>
<td>52 (88.13)</td>
</tr>
<tr>
<td>Non-Commodities</td>
<td>7 (11.86)</td>
</tr>
<tr>
<td>Total</td>
<td>59 (100)</td>
</tr>
</tbody>
</table>

87. See Appendix II, supra note 75.
88. See Appendix II, supra note 75.
89. See Appendix II, supra note 75.
90. For a similar argument see Colares, supra note 49, at 418.
91. See Appendix II, supra note 75.
Turkey’s Third-Party filings also illustrate its close commercial relationship as well as frictions with the European Union. In all of Turkey’s Third-Party appearances (fifty-nine disputes), the European Union was a participant. The latter was either the main Complainant (thirteen times), a fellow Third-Party litigant (thirty-five times), or the Respondent (eleven times). The forty-eight clearly non-adversarial appearances indicate that, as the junior partner in the CU, Turkey has largely incorporated and followed the senior partner’s litigation positions at the DSB. Yet, the eleven quasi-adversarial appearances (i.e., disputes where Turkey appeared as a Third-Party while the EU was the Respondent), suggest a non-trivial level of divergence. Of these eleven, eight were challenges to EU use of trade remedies (i.e., seven AD challenges and one safeguard dispute). Besides revealing a measure of independence, Turkey’s participation as Third Party in these eight trade-remedy disputes “against” the European Union might be viewed as an attempt by Turkey to change EU trade-remedy regulations, which it cannot pursue as the CU’s junior party. Remarkably, seven of these eight cases were brought in the last nine years. This might indicate Turkey’s growing interest in revisiting aspects of its trade relationship with the European Union, short of leaving the CU. The following section examines the nexus between Turkey’s trade policy goals and its litigation performance.

IV. Relationship Between Turkey’s Trade Objectives and Litigation Performance

As set out in the Introduction, Turkey’s first and foremost trade policy objective has been to reduce its current account deficit, which largely stems from the country’s high trade deficit in goods. To reduce this deficit, uninterrupted since 1946, Turkey has deployed two strategies: (i) reducing import dependency on intermediate goods; and (ii) expanding exports, while diversifying export destinations. In pursuit of these two goals, Turkey has applied various trade policy tools, which might have impacted its litigation performance at the WTO.

92. See Appendix II, supra note 75.
93. See Appendix II, supra note 75.
94. Specifically, these “Turkey vs. European Union,” indirect clashes occurred in EC–Trademarks and Geographical Indications; EC–Provisional Steel Safeguards; EC–IT Products; EC–Fasteners (China); EU–Footwear (China); EU–Fatty Alcohols (Indonesia); EU–Herring; European Union–Anti-Dumping Measures on Biodiesel from Argentina; EU–Cost Adjustment Methodologies (Russia); EU–Biodiesel (Indonesia); and EU–Price Comparison Methodologies. See Appendix II, supra note 75.
95. See Appendix II, supra note 75.
96. See Appendix II, supra note 75.
A. Red Flags on the Intermediate Goods Front

Because Turkey is bound to apply EU-set, low-level tariffs, reducing import dependency on intermediate goods has required Turkey to aggressively implement measures that protect domestically produced, intermediate goods. To assist the intermediate goods industry, Turkey has also granted a wide range of subsidies and incentives. Arguably, one would expect that such trade management would nullify or impair the benefits of Turkey’s WTO counterparts, thus triggering the filing of disputes before the DSB. However, Turkey’s infrequent appearance as a Respondent seems to indicate that its trade policies have been either mostly consistent with its WTO commitments or not so conspicuous as to trigger other Members’ trade sensitivities.

Although officials have adopted measures favoring Turkey’s manufacturing sector, the country seldomly has been challenged before the DSB. For instance, as of August 2019, Turkey has been the target of consultations requests only ten times. Compared to Argentina (twenty-two cases); Brazil (sixteen cases); Chile (thirteen cases); China (forty-three cases); India (thirty-one cases); Indonesia (fourteen cases); and Mexico (fifteen cases)—all middle-income countries—Turkey has been targeted less often, despite being a frequent user of subsidies and trade remedies. Although it lost the only two disputes that made it to the final panel stage, one cannot say, based on two instances, that Turkey has done much worse than any other Respondent. The more important lesson here might be that Turkey has calibrated its trade policy to further its intermediate-good industry with measures that, though deviating from market principles at times, have not drawn much attention of its trade partners.

B. Benign Export Measures?

Expanding exports and diversifying export destinations is the other major trade strategy that would help Turkey decrease its trade and current account deficits. Indeed, Turkey intends to reach $500 billion worth of exports by 2023. This overly ambitious objective has been pursued in two ways. First, Turkey has deployed various export

97. See Turkey TPR 2016, supra note 10, at 29, 41.
98. See Dispute Settlement: The Disputes, Disputes by Member, WTO [hereinafter WTO Disputes by Member], https://www.wto.org/english/tratop_e/dispu_e/dispu_by_country_e.htm (last visited Aug. 12, 2019).
99. See World Bank Country Income, supra note 86.
100. See supra Section I.
101. See Turkey TPR 2016, supra note 10, at 17.
promotion tools. Not unlike the measures designed to reduce Turkey’s dependence on intermediate goods, export promotion has not led to much trade friction—Turkey’s measures have only been the target of consultations requests ten times, definitely less than other middle-income peers.

Second, to help promote its exports, Turkey has been a seemingly strategic and definitely frequent user of indirect trade litigation (fifty-nine appearances as Third-Party litigant). As Third-Party adjudicator, Turkey has taken advantage of trade-remedy law litigation (seven safeguards and 29 AD/CVD challenges) to protect existing (safeguard disputes) or open potential markets (AD/CVD disputes) for its significant export sectors (iron and steel, automobiles, textiles and clothing, and agriculture, etc.). Notably, because safeguards are not country-specific measures, Turkey benefits directly from defeating them—while also saving resources—by entering Third-Party appearances. Yet, Turkey’s Third-Party appearance in country-specific, AD/CVD disputes can be viewed as part of a “play-for-precedent” strategy that involves suing with an interest in undermining other Members’ trade-remedy practices that could eventually jeopardize Turkish exporters.

That said, Turkey has been an infrequent (direct) Complainant. It has brought only five cases: three targeting countries not among Turkey’s top-ten exporting partners (e.g., Egypt, South Africa and Morocco), and two targeting the United States. Although the CU technically does not restrict Parties from suing each other at the DSB and excludes agricultural products, Turkey has yet to challenge the EU’s massive agricultural subsidies (CAP). In fact, as of August 2019, Turkey has been a Complainant less frequently than: Argentina (twenty-one cases); Brazil (thirty-three cases); Chile (ten cases); China (twenty cases); Guatemala (ten cases); Honduras (eight cases); India (twenty-four cases); Indonesia (eleven cases); Mexico (twenty-five cases); Panama (seven cases); Russia (eight cases); Taiwan (six cases); Thailand (fourteen cases); and Ukraine (nine cases). At a time when Complainants typically win ninety percent of their challenges, Turkey’s infrequent use of direct litigation is intriguing. Other than its close ties with the European Union and the litigation-restricting effects of their

102. See id., at 87–96.

103. For a different application of such strategy see Colares, supra note 49, at 418.

104. See infra Appendix I, Table A (indicating the Respondents in Turkey’s five direct filings); TURKISH STATISTICAL INSTITUTE, STATISTICS BY THEME, FOREIGN TRADE STATISTICS, EXPORTS BY COUNTRY AND YEAR, http://www.turkstat.gov.tr/PreIstatistikTablo.do?istab_id=2889 (last visited Aug. 24, 2020).

105. See WTO DISPUTES BY MEMBER, supra note 98.
CU, Turkey’s lack of interest in direct litigation might be explained by a reluctance to restrain its trade management options in case it succeeds in challenging those of other Members.

Clearly, Turkey’s performance as a WTO litigator has not secured its trade policy objectives. As previously discussed, Turkey’s dependency on intermediate-good imports has remained too high—intermediate-good imports amounted to 67.6, 76.6, and 76.2 percent of Turkey’s total imports in 2016, 2017, and 2018, respectively. Further, although Turkey’s exports increased to $167 billion in 2018, which is the highest level in Turkey’s history, its main export destinations remain the same (i.e., the European Union, capturing fifty percent of Turkey’s total exports; and the Near/Middle East and Northern African countries, receiving twenty-three percent of Turkey’s total exports) in 2018. Hence, Turkey’s trade deficit remains uninterrupted since 1946, increasing to $55 billion in 2018. The structural impacts of Turkey’s trade profile clearly affect the efficacy of trade litigation as a policy tool.

The following section examines the extent to which such inefficacy stems from limitations inherent in the WTO DSB (e.g., remedial nature of litigation, limited bilateral reach, etc.) as well as the sui generis composition of Turkey’s trade partners, most of which are either: (i) neighbors that have yet to become WTO members; or (ii) members of the European Union, to whom Turkey has surrendered its trade sovereignty, pursuant to the CU. In light of the limitations of trade litigation, the analysis that follows demonstrates the need to identify more promising tools for addressing Turkey’s persistent dual trade challenges.

V. WHY LITIGATION CANNOT ADDRESS TURKEY’S TRADE IMBALANCES

Could WTO litigation ever become an effective trade policy tool to help Turkey address, partly, at least, its perennial trade and current account deficits? Two main reasons explain why litigation is ill-suited for these purposes: one systemic, the other, sui generis.

106. See Turkish Statistical Institute, Statistics by Theme, Foreign Trade Statistics, Statistical Tables and Dynamic Search, Foreign Trade Classification by Broad Economic Categories (BEC), http://www.turkstat.gov.tr/PreTablo.do?alt_id=1046 (last visited Aug. 24, 2020). We made the percentage calculations above based on data from this source.

107. See TSI-Foreign Trade by Year, supra note 6.


109. See TSI-Foreign Trade by Year, supra note 6.
A. Systemic Limitations

Dispute settlement at the DSB has obvious, inherent limitations associated with its bilateral nature and type of remedies it can offer. As a Member-to-Member\textsuperscript{110} (i.e., bilateral) dispute settlement system, a Member can only protect its bargained-for concessions if it can establish that another Member’s trade measures have nullified or impaired its benefits. This means that an aggrieved member can only vindicate its interest if it prevails upon the other to change its conduct either through consultations, or as a result of successful litigation. Yet, the scope of what can be offered in settlement during the consultations stage can be quite limited. Operation of the MFN principle limits what potential Respondents can offer as settlement to induce potential Complainants to forgo litigation, because settlement offers can trigger the obligation to extend similar concessions to non-litigant, third countries. That being the case, outright litigation is perhaps more likely in the WTO system than in other adjudicatory systems.

Furthermore, the range of remedies obtained through WTO litigation is also somewhat restricted, because successful litigation can only offer forward-looking remedies.\textsuperscript{111} A harmed Member can only obtain relief, if successful, later in time and only against the Member that infringed its obligations. In fact, in some cases, such remedies come too little, too late. For instance, by the time the Complainant wins, the violating measure may have already entrenched the unlawful advantage the Respondent Member’s industry obtained, so that removal of the violating measure becomes a Pyrrhic victory. To wit, the flagrantly WTO-inconsistent Ontario Feed-in Tariffs (“FIT”), a program that provided subsidies to local producers of equipment associated with generating renewable energy in Canada, which hurt Japanese exports in that sector. Once adjudicated inconsistent with WTO rules, Japanese exports to Canada never recovered, a clear case where law-breaking first and removing offending measures later paid off.\textsuperscript{112}

Finally, the duration of disputes is another major systemic limitation that reduces the value of WTO litigation. According to Reich (2017), the average duration of disputes (i.e., from the request of consultations

\textsuperscript{110}. Although “state-to-state” is the more intuitive phrase, technically, only states who are WTO members can sue each other, hence the term “Member-to-Member.” \textit{But see Joost Pauwelyn, The Limits of Litigation: “Americanization” and Negotiation in the Settlement of WTO Disputes, 19 OHIO ST. J. DISP. RESOL. 121, 129 (2003).}

\textsuperscript{111}. \textit{See Colares, supra note 48, at 430.}

to the adoption of a panel/AB report) was twenty-eight months between 2007 and 2011.113 Of course, many disputes do not end with the voluntary adoption of the resulting DSB report by the losing Member.114 Such Member also benefits from the right to implement WTO-consistent measures within a reasonable time.115 Although Members seem to have a very high compliance rate (i.e., eighty-three percent) overall, the on-time-compliance rate is only about sixty percent.116 Thus, recalcitrance as well as built-in protections can result in delayed and ineffectiv justice.117 This problem has also been noticed by other scholars.118 To some, trade disputes could be more easily solved through trade diplomacy rather than trade litigation.

A recent example, involving Turkey, illustrates how limited and delayed remedies might affect potential Complainant’s attitudes toward WTO litigation. In 2015, Russia imposed a number of sanctions, including trade sanctions, against Turkey. Most Turkish exports were embargoed following Turkey’s shooting of a Russian jet that violated Turkey’s airspace.119 Bozkurt Aran, former Ambassador of Turkey at the WTO, posited that Turkey had a solid case and would bring the dispute against Russia before the DSB, because, according to him, Russian measures seemed inconsistent with Russia’s WTO commitments.120 Yet, Turkey never brought a dispute before the DSB. Rather, Turkey decided to solve the matter solely via diplomacy. Within less than two years, Turkey settled the matter with Russia without going into protracted litigation.121 Regardless of one’s views on the desirability of Turkey’s handling of this issue (directly) with Russia or the terms of

---

114. See Pauwelyn, supra note 110, at 136.
115. See DSU, supra note 16, art. 21.3.
118. See Ziembicki, supra note 117.
121. See Hille, supra note 119.
settlement reached, one has to wonder whether one could expect the WTO system to provide a more expedient outcome for Turkey.122

B. Geographic Limitations

A non-systemic, notably geographical reason why litigation has not and could not have been an effective trade policy tool for Turkey has to do with Turkey’s limited capability to use litigation against most of its sui generis, neighboring trade partners. The majority of Turkey’s neighboring trade partners (i.e., Iraq, Syria, Iran, Azerbaijan, Algeria, etc.) are not WTO Members, and Russia, another important trade partner, only became a Member in 2012.123 Hence, the prosecution of WTO disputes against these neighbors has been mostly impossible.

Turkey has also been severely constrained from litigating against its main Western neighbor, the European Union, because of their partnership in a customs union. Indeed, so far, neither Turkey nor the European Union have brought disputes against each other.124 As the junior partner in the CU, Turkey agreed to adopt EU trade laws and regulations125 and has applied EU CETs on industrial products,126 while it has been excluded in the decision-making process of the European Union.127 Turkey’s ambition to become a full member of the European Union has also been an important, litigation-constraining factor.128

In sum, trade litigation at the WTO has not and could not have been an effective trade policy tool for Turkey. Litigation-systemic and geographic constraints continue to affect Turkey’s ability to resort to trade litigation as a main Complainant. That Turkey has occasionally become a Third-Party adjudicator against the European Union—hoping,

122. Determining whether such negotiations led to a reasonable deal for Turkey is well beyond the scope of this Article.


124. Recently, the European Union filed its first request for consultations in relation to Turkey’s localization and technology transfer requirements for certain pharmaceutical products. See EU Request for Consultations, supra note 71.

125. See Decision No 1/95 of the EC-Turkey Association Council of 22 December 1995 on Implementing the Final Phase of the Customs Union 96/142, art. 12, 1996 O.J. (L 035) (EC) [hereinafter CU Decision].

126. See id., art. 13.


128. See SARIBEYOGLU, supra note 55.
presumably, to affect EU trade administration in one-off, discrete interventions—is likely to yield little tangible gain. Turkey’s exports are not directly impacted by favorable outcomes in these disputes; new opportunities from (Third-Party) wins must be shared with a wide range of trade competitors; and eventual changes in EU measures might need to be implemented by Turkey, pursuant to the CU. For these reasons, Turkey should incorporate other trade policy tools to address its trade policy objectives.

VI. Conclusion

To address its high perennial trade and current account deficits, Turkey must surely look beyond WTO litigation and candidly reevaluate its options. Exporting a relatively larger share of its GDP—an outcome that will require expanding/diversifying exports—and reducing intermediate-goods import dependency will demand, inevitably, effective deployment of Turkey’s trade discretion under the WTO system. Because Turkey negotiated quite favorable (i.e., high) tariff bindings in the Uruguay Round, resumption of free trade agreement (“FTA”) negotiations would be feasible, as some commentators indicated recently. Yet, such an undertaking would demand a major policy shift on the part of Turkey, which would have to initiate negotiations aiming to restructure its economic relationship with the European Union, particularly the shift from customs union to comprehensive FTA.

A broad, EU-Turkey FTA that secures low-tariff rates on industrial and agricultural goods—the latter not within the scope of the current CU—would not cause much trade disruption. Specifically, with the FTA, already low EU MFN (bound) rates would go lower, while Turkey’s much higher (bound) rates would converge to the agreed-upon FTA level. Furthermore, the CU experience has created much convergence on rules of origin, which should not lead to unwieldy negotiations. Such a deal could be very much politically palatable to both sides, too: free to conduct its own trade policy with third countries, Turkey would cope better with further delays on accession talks, while

129. See CU Decision, supra note 125 art. 12.
130. See, e.g., Juscelino F. Colares & Mustafa T. Durmuş, TURK-SWITCH: The Tariff-Leverage and Legal Case for Turkey’s Shift from Customs Union to FTA with the European Union and Beyond, 22 J. INT’L ECON. L. 99, 108–10, 112–13 (2019) (stating that Turkey negotiated “an average 42.6 percent tariff on slightly more than one-third of industrial goods—leaving remaining industrial goods unbound from WTO commitments”).
131. See CU Decision, supra note 125, art. 2.
132. See Colares & Durmuş, supra note 130, at 117–18 (indicating that “EU MFN tariff rates on industrial goods” average about 4.1 percent).
national leaders in some EU-member states would not have to address undesirable yet politically delicate, religious- and ethnic-based opposition to Turkey’s EU membership.\textsuperscript{133}

Besides transactional and political advantages, restructuring EU-Turkey trade relations would allow Turkey to leverage its favorable WTO tariff schedule on industrial and agricultural goods against third countries.\textsuperscript{134} Able to pursue and forge new trade ties particularly with countries beyond its immediate European and Middle Eastern neighborhood, Turkey would be better positioned to expand and diversify its exports, which, in turn, could help it reduce its trade and current account deficits. In fact, as the United States and Japan seek to reduce their reliance on Chinese products and technology, a CU-free Turkey could become one new hub in their more decentralized supply networks. Finally, in light of the current stalemate over WTO Appellate Body replacements and the associated interruption of its operations, the opportunity to sign new FTAs would also allow Turkey and its new FTA partners to create new, more responsive and directly accountable dispute settlement systems that could help reduce eventual trade friction.

\textsuperscript{133} See id. at 109–10.
\textsuperscript{134} See id. at 118–21.
### Table A: Turkey as Complainant

<table>
<thead>
<tr>
<th>Dispute</th>
<th>Report No.</th>
<th>Respondent</th>
<th>Third Parties</th>
<th>Current Status</th>
<th>Filing Year</th>
<th>Product Involved</th>
<th>Agreement Involved</th>
<th>Winner</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Egypt–Definitive Anti-Dumping Measures on Steel Rebar from Turkey</td>
<td>WT/DS211/R</td>
<td>Egypt</td>
<td>Chile; EC; Japan; and United States</td>
<td>Implementation notified by Respondent</td>
<td>2000</td>
<td>Steel Rebar</td>
<td>ADA, arts. 5, 4 &amp; 6.8</td>
<td>Complainant</td>
</tr>
<tr>
<td>2 South Africa–Definitive Anti-Dumping Measures on Blanketing from Turkey</td>
<td>WT/DS288</td>
<td>South Africa</td>
<td>N/A</td>
<td>In consultations</td>
<td>2003</td>
<td>Blanket</td>
<td>ADA, arts. 5, 6 &amp; 9; GATT arts. III &amp; X</td>
<td>N/A</td>
</tr>
<tr>
<td>3 Morocco–Anti-Dumping Measures on Certain Hot-Rolled Steel from Turkey</td>
<td>WT/DS513/R</td>
<td>Morocco</td>
<td>China; Egypt; European Union; India; Japan; Kazakhstan; South Korea; Russia; Singapore; United Arab Emirates; and United States</td>
<td>Panel Report under Appeal</td>
<td>2016</td>
<td>Hot-Rolled Steel</td>
<td>ADA, arts. 3 &amp; 6; GATT, arts. I, X &amp; XI</td>
<td>N/A</td>
</tr>
<tr>
<td>No.</td>
<td>Dispute</td>
<td>Report No.</td>
<td>Respondent</td>
<td>Third Parties</td>
<td>Current Status</td>
<td>Filing Year</td>
<td>Product Involved</td>
<td>Agreement Involved</td>
</tr>
<tr>
<td>-----</td>
<td>-------------------------------------------------------------------------</td>
<td>---------------------</td>
<td>------------</td>
<td>-------------------------------------------------------------------------------</td>
<td>---------------------------------</td>
<td>-------------</td>
<td>--------------------------------</td>
<td>-----------------------------------</td>
</tr>
<tr>
<td>4</td>
<td>United States– Countervailing Measures on Certain Pipe and Tube Products (Turkey)</td>
<td>WT/DS523/R</td>
<td>United States</td>
<td>Brazil; Canada; China; European Union; Japan; Kazakhstan; South Korea; Mexico; Russia; Saudi Arabia; and United Arab Emirates</td>
<td>Panel Report under Appeal</td>
<td>2017</td>
<td>Steel Pipe and Tube Products</td>
<td>SCM, arts. 1, 2, 10, 12, 14, 15, 19 &amp; 32; GATT, arts. VI.3</td>
</tr>
<tr>
<td>5</td>
<td>United States– Certain Measures on Steel and Aluminum Products</td>
<td>WT/DS564</td>
<td>United States</td>
<td>Bahrain; Brazil; Canada; China; Colombia; Egypt; European Union, Guatemala; Hong Kong; Iceland; India; Indonesia; Japan; Kazakhstan; New Zealand; Norway; Malaysia; Mexico; Qatar; Russia; Saudi Arabia; Singapore; Switzerland; Taiwan; Thailand; Ukraine; Venezuela; and Bolivia.</td>
<td>Panel Composed</td>
<td>2018</td>
<td>Steel and Aluminum Products</td>
<td>GATT, arts. I, II, X, XI, XIII &amp; XIX; Safeguards, arts. 2, 3, 4, 5, 7, 8, 9, 11.1 &amp; 12</td>
</tr>
</tbody>
</table>

Source: See Member Info., Tur. & The WTO, Dispute cases involving Turkey, World Trade Organization [https://www.wto.org/english/thewto_e/countries_e/turkey_e.htm (last visited Aug. 8, 2019).]
### Table B: Turkey as Respondent

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>WT/ DS47</td>
<td>Thailand</td>
<td>N/A</td>
<td>In consultations</td>
<td>1996</td>
<td>Textiles and Clothing</td>
<td>GATT, arts. I, II &amp; XI</td>
<td>N/A</td>
</tr>
<tr>
<td>1</td>
<td>WT/ DS29</td>
<td>Hong Kong and China</td>
<td>N/A</td>
<td>In consultations</td>
<td>1996</td>
<td>Textiles and Clothing</td>
<td>GATT, arts. XI &amp; XXIV</td>
<td>N/A</td>
</tr>
<tr>
<td>1</td>
<td>WT/ DS34/ AR/R</td>
<td>India</td>
<td>Hong Kong; China; Japan; Philippines; Thailand; and United States</td>
<td>Mutually acceptable solution on implementation notified</td>
<td>1996</td>
<td>Textiles and Clothing</td>
<td>GATT, arts. XI &amp; XXIV</td>
<td>Complainant</td>
</tr>
<tr>
<td>2</td>
<td>WT/ DS43</td>
<td>United States</td>
<td>Canada</td>
<td>Settled or terminated</td>
<td>1996</td>
<td>Showing of foreign films</td>
<td>GATT, art. III</td>
<td>N/A</td>
</tr>
</tbody>
</table>

[^35]: As discussed in Section III.A, to prevent double counting, disputes, i.e., WT/DS47, WT/DS29, and WT/DS34 were counted as one, because Hong Kong and Thailand also participated as Third-Party litigants in the dispute raised by India (WT/DS34).
<table>
<thead>
<tr>
<th>Dispute (^{15})</th>
<th>Report No.</th>
<th>Complainant</th>
<th>Third Parties</th>
<th>Current Status</th>
<th>Filing Year</th>
<th>Product involved</th>
<th>Agreement Involved</th>
<th>Winner</th>
</tr>
</thead>
<tbody>
<tr>
<td>3</td>
<td>Turkey–Anti-Dumping Duty on Steel and Iron Pipe Fittings</td>
<td>WT/DS208</td>
<td>Brazil</td>
<td>N/A</td>
<td>In consultations</td>
<td>2000</td>
<td>Iron Pipe Fittings</td>
<td>GATT, art. VI; ADA, arts. 2, 3, 5 &amp; 6</td>
</tr>
<tr>
<td>4</td>
<td>Turkey–Certain Import Procedures for Fresh Fruit</td>
<td>WT/DS237</td>
<td>Ecuador</td>
<td>Columbia; EC; and United States</td>
<td>Settled or terminated</td>
<td>2001</td>
<td>Banana</td>
<td>GATT, arts. III &amp; XI; A.A., art. 4</td>
</tr>
<tr>
<td>5</td>
<td>Turkey–Import Ban on Pet Food from Hungary</td>
<td>WT/DS256</td>
<td>Hungary</td>
<td>N/A</td>
<td>In consultations</td>
<td>2002</td>
<td>Pet Food</td>
<td>GATT, art. XI; A.A., art. 14; SPS, arts 2, 5, 6 &amp; 7</td>
</tr>
<tr>
<td>6</td>
<td>Turkey–Measures Affecting the Importation of Rice</td>
<td>WT/DS334/R</td>
<td>United States</td>
<td>Argentina; Australia; China; Egypt; EC; South Korea; Pakistan; and Thailand</td>
<td>Implementation notified by respondent</td>
<td>2005</td>
<td>Rice</td>
<td>GATT, arts. III &amp; XI; A.A., art. 4.2; Import Licensing, arts. 1, 3 &amp; 5</td>
</tr>
<tr>
<td>No.</td>
<td>Dispute*</td>
<td>Report No.</td>
<td>Complainant</td>
<td>Third Parties</td>
<td>Current Status</td>
<td>Filing Year</td>
<td>Product Involved</td>
<td>Agreement Involved</td>
</tr>
<tr>
<td>-----</td>
<td>----------</td>
<td>------------</td>
<td>-------------</td>
<td>---------------</td>
<td>----------------</td>
<td>-------------</td>
<td>-----------------</td>
<td>--------------------</td>
</tr>
<tr>
<td>7</td>
<td>Turkey– Safeguard Measures on Imports of Cotton Yarn (other than Sewing Thread)</td>
<td>WT/DS428</td>
<td>India</td>
<td>N/A</td>
<td>In consultations</td>
<td>2012</td>
<td>Cotton Yarn</td>
<td>GATT, art. XIX:1(a); Safeguards, arts. 4, 5, 6 &amp; 7</td>
</tr>
<tr>
<td>8</td>
<td>Turkey– Additional Duties on Certain Products from the United States</td>
<td>WT/DS561</td>
<td>United States</td>
<td>Brazil; Canada; European Union; Guatemala; India; Indonesia; Japan; Kazakhstan; Mexico; New Zealand; Norway; Russia; Singapore; Switzerland; Taiwan; Thailand; Ukraine; Venezuela; and Bolivia</td>
<td>Panel composed</td>
<td>2018</td>
<td>Different Products</td>
<td>GATT, arts. I.1, II.1(a) &amp; II.1(b)</td>
</tr>
<tr>
<td>No.</td>
<td>Dispute Title</td>
<td>Report No.</td>
<td>Complainant</td>
<td>Third Parties</td>
<td>Current Status</td>
<td>Filing Year</td>
<td>Product Involved</td>
<td>Agreement Involved</td>
</tr>
<tr>
<td>-----</td>
<td>------------------------------------------------------------------------------</td>
<td>------------</td>
<td>-------------</td>
<td>------------------------------------------------------------------------------</td>
<td>----------------</td>
<td>--------------</td>
<td>-----------------</td>
<td>-----------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>9</td>
<td>Turkey–Additional Duties on Imports of Air Conditioning Machines from Thailand</td>
<td>WT/DS573</td>
<td>Thailand</td>
<td>Brazil; Canada; China; European Union; India; Japan; Russia; Singapore; Korea; Ukraine; and United States</td>
<td>Panel composed</td>
<td>2018</td>
<td>Air Conditioners</td>
<td>GATT, arts. I, II &amp; XIX; Safeguards, arts. 8.2 &amp; 12.3</td>
</tr>
<tr>
<td>10</td>
<td>Turkey–Certain Measures concerning the Production, Importation and Marketing of Pharmaceutical Products</td>
<td>WT/DS83</td>
<td>European Union</td>
<td>N/A</td>
<td>In Consultations</td>
<td>2019</td>
<td>Pharmaceutical Products</td>
<td>GATT, arts. III, X &amp; XI; TRIMs, arts. 2 &amp; 3; SCM, art. 1, 3</td>
</tr>
</tbody>
</table>

Source: See Member Info., Turk. & The WTO, Dispute Cases Involving Turkey, World Trade Organization, [https://www.wto.org/english/thewto_e/countries_e/turkey_e.htm](https://www.wto.org/english/thewto_e/countries_e/turkey_e.htm) (last visited Aug. 8, 2019).