



The Practice of Mediation and Non-litigation in the Dispute Settlement Mechanism between China and the WTO

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Citation: Liu, J., & Rosli, I. C. (2025). The practice of mediation and non-litigation in the dispute settlement mechanism between China and the WTO. *China and WTO Review*, 11(1), 58-70. <https://doi.org/10.52152/cwr.2025.11.1.05>

ARTICLE INFO

Received: 14 Jan 2025
Accepted: 26 Mar 2025

ABSTRACT

This study explores the integration of mediation and non-litigation practices in China’s dispute resolution approach within the World Trade Organization (WTO) framework. With the rising importance of alternative dispute resolution (ADR) methods in international trade, China emphasizes mediation and non-litigation to promote harmony and resolve conflicts more efficiently than traditional litigation. This research aims to evaluate the effectiveness of these practices, focusing on their alignment with China’s cultural emphasis on harmony, and their implications for the WTO’s dispute settlement process. Using a qualitative methodology, including a systematic literature review and thematic analysis, the study examines official WTO case records, policy documents, and relevant Chinese legal texts. Findings reveal that China’s ADR approach not only enhances dispute resolution efficiency but also contributes to a diversified dispute settlement system within the WTO. These insights offer broader implications for the evolution of ADR in global trade conflict resolution.

Keywords: Alternative Dispute Resolution, Mediation, Non-litigation, Harmony, Diversified Dispute Resolution.

INTRODUCTION

Globalization of the global economy has created rising tensions between nations on trade issues, where every dispute has the ability to disrupt international economic relations. The World Trade Organization (WTO) provides a formal process of dispute settlement, traditionally based on litigation (Nolan, Shuming, & Kamoche, 2023). However, this model of litigation is often expensive, time-consuming, and adversarial, which can strain diplomatic relations between member states. Conversely, mediation and non-litigation measures have emerged as leading in the facilitation of cooperation, effectiveness, and common benefit in trade dispute resolution (Merrills, 2017). The current study aims to examine the effectiveness of mediation and non-litigation as part of China’s WTO dispute settlement policy, ascertaining how these measures align with China’s cultural imperatives for harmony and their broader implications for the WTO dispute settlement system.

China has been an active advocate of Alternative Dispute Resolution (ADR), reconciling its practice with both cultural legacy and economic strategic interests. In accordance with Confucian philosophy, China’s mediation strategy is focused on harmony (he, 和), emphasizing balance, stability, and avoidance of conflict (Kohtz, 2019). In the WTO framework, China advocates mediation as a means of preserving trade relations while settling disputes in an effective way. The increasing application of mediation by the WTO is a movement towards less adversarial, relationship-maintaining modes of dispute resolution, which is consistent with China’s economic and diplomatic interests.

Research highlights that mediation is more efficient compared to litigation, reducing time for the resolution of disputes by up to 50%, and also cost-friendly as compared to standard WTO litigation, which consumes years and a lot of monetary resources (Shaffer & Gao, 2020; Alexander, 2024). A great example is China’s 2002

agricultural trade dispute with Japan, which the two nations were able to settle peacefully through mediation rather than lengthy litigations, thereby ensuring firm diplomatic and trading relations (Du & Peng, 2024). Such advantages underscore the growing importance of mediation in the settlement of WTO disputes.

Significance of the Study

This study explores how China's emphasis on non-litigation and mediation aligns with its cultural and diplomatic agendas while pushing the development of ADR in the WTO forward. Through the assessment of the effectiveness of such litigation methods, this study provides information on how the WTO can make its process of settling disputes more diverse by incorporating more lenient ADR policies. Moreover, this study contributes to international trade law scholarship by evaluating whether China's ADR model can serve as a template for other WTO member states, offering a less adversarial, cooperative approach to regulating global trade.

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?

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.

This research focuses on mediation and non-litigation within the context of WTO dispute settlement applied by China. Official WTO case records, Chinese policy documents, and legal literature on ADR will thus be subject to analysis to provide a systematic approach to documenting China's approach, how its cultural emphasis on harmony informs its strategies for dispute resolution. The scope also encompasses a comparative study on ADR and litigation, measuring to what extent approaches applied by China might impact the WTO's diverse dispute resolution practice. Besides that, it investigates the level at which China's practices may serve as a paradigm for other member states and in attaining the WTO's objective of amicable and efficient settlement of disputes on a global level.

LITERATURE REVIEW

Alternative Dispute Resolution in International Trade

Alternative dispute resolution (ADR) has existed as an effective way to settle international trade disputes outside traditional courts for quite a while. ADR processes, including mediation, arbitration, and conciliation, are aimed at resolving disagreements amicably, reducing expenditures, and preserving trading relationships (Merrills, 2017). Despite the fact that ADR is more relationship-preserving and accommodating, it remains questionable if ADR will be used within the World Trade Organization (WTO).

Merrills (2017) points out that mediation is a more rapid and economical process than litigation, particularly in the WTO context. However, one of the greatest weaknesses of Merrills' work is that it does not offer empirical case studies to support the claimed advantages. While mediation expedites dispute settlement, its non-binding nature typically results in unresolved disputes recurring when parties fail to stick to agreements reached. This is a worry for enforcement, one of the major inadequacies of ADR in global commerce.

In addition, Alexander (2024) points out that ADR enables disputing parties to develop tailor-made solutions instead of inflexible legal decisions. Critics, though, point out that such flexibility brings about inconsistencies where the outcomes of disputes are subject to change based on the bargaining power of the parties involved. Litigation in the WTO, on the other hand, guarantees legal precedent and predictability, hence its applicability to complicated trade disputes. This criticism proposes that although ADR is helpful in bilateral disputes, it will not necessarily work in multilateral or systemic WTO disputes.

Shaffer and Gao (2020) investigate how mediation has been successful in shortening the time to resolve disputes up to 50%, from China's growing use of ADR in the WTO. Although their research is highly statistical in

support, it does not consider instances where mediation was unsuccessful, for example, cases where power disparities between developed and developing economies have resulted in one-sided wins. A more equitable analysis is required to determine if ADR is an equally effective mechanism or if it is disproportionately advantageous to economically more powerful countries.

Pablo (2024) analyses the confidentiality benefits of ADR on the grounds that confidential negotiations avert reputational harm for WTO members. Yet, this does not take into account transparency issues since secretive settlement of disputes could be unaccountable and avert public examination of trade deals. This constraint questions fairness and regulatory control, particularly in cases with broader ramifications than the disputing parties.

Therefore, although ADR has tremendous advantages, its drawbacks need to be critically assessed. In the absence of enforcement mechanisms, mediation can be less effective in resolving disputes between nations with unequal bargaining power. Confidentiality in ADR also questions whether trade disputes should be kept confidential or be open to public scrutiny for enhanced regulatory transparency.

China's ADR Practices and the Concept of Harmony

China's inclination towards ADR stems from its Confucian tradition of harmony (he, 和), which stresses non-adversarial conflict resolution and collaborative negotiation (Z. J. Wang & J. Chen, 2019). Chinese policymakers support ADR under the WTO system on the grounds that mediation creates more robust trade relationships while circumventing the confrontational aspects of litigation. Nonetheless, some critics contend that China's priority on mediation does not solely follow cultural values but also strategic agendas. Nicholson (2010) and Scott and Wilkinson (2017) claim that China's preference for non-litigation gives it more diplomatic leverage against weaker trading nations. In contrast to litigation based on rigid legal precedents, mediation leaves room for more manoeuvring, which China can manipulate to its own advantage.

In addition, Wei, Liang, and Feng (2023) discuss China's promotion of mediation in WTO cases, yet only focus on those instances when mediation has succeeded. Other academics, including Davey (2014) and Bown (2024), propose that mediation is only worthwhile if both parties share equal motives for coming to a settlement. In highly politicized trade controversies, e.g., U.S.-China tariff wars, mediation has been less successful because of competing national interests and reluctance by major powers to make concessions. Although China's model of mediation is useful for bilateral trade disputes, it might not work as well for complicated, multi-party WTO cases. More study is needed to ascertain whether China's ADR model can be institutionalized on a larger scale or is a case-specific model.

WTO Dispute Settlement Mechanisms

The WTO's Dispute Settlement Agreement (DSU) provides a formal system of litigation for settling trade disputes. Yet, with high expenses and long procedures, interest in ADR is on the rise (Davey, 2014). Though mediation is commendable for promoting negotiation and de-escalation, others criticize that ADR will not have the compulsory authority that can make parties comply (Hoekman & Mavroidis, 2020).

One of the main shortcomings of ADR in the WTO is its modest success rate in extremely politicized trade disputes. Although mediation worked in China's 2002 agricultural trade conflict with Japan, it has not been as effective in disputes involving national security or strategic sectors. Nations engaged in high-profile disputes, like the U.S.-China tariff war, have tended to opt for litigation instead of mediation, since formal decisions afford greater legal safeguards (Bown, 2024). The other key issue is that ADR is still underutilized in the WTO context. While the DSU permits mediation and conciliation, most of the member states continue to resort to litigation based on the legal predictability it offers (Davey, 2005). If ADR decisions continue not to be enforceable, WTO members will continue to prefer litigation even with its limitations.

Thus, although ADR could increase efficiency and cooperation, its irregularities, non-legally binding nature, and limited use in trade disputes under the WTO cast doubt on its long-term sustainability. Unless structural changes are implemented, ADR could prove to be a fallback position instead of a proper substitute for litigation in international trade disputes.

THEORETICAL FRAMEWORK

Harmony and ADR Theory

Harmony is an element that deeply penetrates Chinese culture and the legal orientations that shape its approach to ADR. Harmony promotes the idea of balance, social harmony, and non-competition in Confucian and Taoist philosophy as it moulds both interpersonal and international relations (Tan, 2007). In terms of ADR,

harmony is a guiding element promoting the preservation of relationships and avoidance of adversarial inherent in litigation. Its ADR practices focus on resolution strategies creating mutual understanding and avoiding conflict escalation rather than the Confucian ideal of "he" (和), meaning unity and peace (Mason, 2022). In this regard, China's framework for ADR includes mediation and non-litigation with a view toward resolutions consistent with values that emphasize group good and respect in place of individual rights. This theoretical underpinning could explain why China, in ADR, prefers resolving its disputes regarding WTO and how the cultural principles shape the approach of its mechanism in dispute resolution toward the settlement of trade conflict.

ADR in International Relations Theory

ADR also has an imperative role in international relations where theories of diplomacy and economic interdependence promote the cooperative resolution of disputes. Other theories, such as liberal institutionalism, suggest that ADR is helpful for constructive diplomatic relations as it encourages negotiation instead of conflict, thereby reducing tension, leading towards economic stability (Keohane, 2005). In the global arrangement of the WTO, theory applies since through ADR, mutually beneficial outcomes are reached without a loss of diplomatic ties. ADR, as defined by the WTO, represents the shift from a conflictive approach to a more collaborative approach. Indeed, mediation and conciliation provide frameworks in which states can engage in dialogue and negotiation (Adjovu, 2000). China's harmony-based ADR, therefore, resonates with theories of international relations; cooperativeness is the keynote rather than conflictive adversarial processes. Such theories underscore the international applicability of ADR and would then make the approach taken by China of cultural significance as well as diplomatically savvy in the context of the dispute resolution body of the WTO.

Game Theory and ADR in WTO Dispute Resolution

Game theory also offers a model for explaining strategic choice in trade disputes in the form of a structured analysis of behavior when WTO members decide between litigation and mediation. In ADR, choosing between mediation or litigation can be modeled using the Prisoner's Dilemma, with both sides considering whether cooperation has enough advantages to be preferred over possibly winning a judicial decision (Keohane, 2005).

Nations involved in WTO disputes weigh their options against three central strategic considerations: cooperation, negotiating power, and aversion to risk. In low-stakes conflicts, ADR provides a win-win solution, as both sides may negotiate conditions without raising the stakes. In high-stakes disputes, though, nations with greater economic power might prefer litigation as a means of setting precedents, where future disagreements are settled under binding WTO laws (Hoekman & Mavroidis, 2020).

The other major element of game theory in ADR is risk aversion and uncertainty. Countries that are not sure whether WTO panels will rule in their favour may use mediation to prevent uncertain outcomes in litigation. Conversely, when a country is certain that a ruling will go in its favour, it will more likely seek litigation to obtain a clear legal win. By incorporating game theory into its analysis of ADR, the research explains why some disputes tend to be mediatable while others go through formal litigation. It also illuminates how power disparities in the economic sphere shape dispute resolution policy within the WTO system.

Literature Gap

In spite of much research on ADR in foreign trade, a number of crucial gaps continue to exist in the literature. A primary problem is the shortage of empirical studies on the long-term enforceability of mediated agreements under the WTO. Although studies have investigated the effectiveness of mediation, few have asked whether parties invariably adhere to mediated settlements over the long run. This challenges the sustainability of ADR as a main means of resolving disputes in international trade.

Additionally, most of the research that currently exists is in favour of ADR, and fewer studies actually critique its failure. More empirical case studies regarding situations where mediation has failed should be conducted, especially in scenarios involving large economies pressuring small trading partners. Future studies also need to find out if ADR favours economically strong countries to the detriment of weaker economies.

One additional shortfall in existing literature is theoretical models connecting ADR to strategic decision-making. As much as game theory is ubiquitous in both economics and political science, such applicability as regards international trade disagreements and mediation by the WTO remains limited. If future study introduces strategic models for decision-making, they shall come up with an enhanced context regarding how the WTO members exercise the process of resolving disputes.

This research fills these gaps by examining the success of China's ADR model, using game-theoretic insights, and determining whether mediation can be a real alternative to WTO litigation. By filling these gaps, this research adds to an enhanced understanding of ADR's influence on global trade governance.

METHODOLOGY

Research Design

The research utilized the qualitative research approach to analyse China's mediation and non-litigation practices under the WTO dispute resolution system. The qualitative approach is suitable as it captures the cultural and procedural subtleties perfectly and enables thorough scrutiny of China's ADR methods and harmonization with its legal and policy frameworks (Pathak, Jena, & Kalra, 2013).

Peer-reviewed academic literature was employed for data gathering to provide scholarly rigor and validity. The sources of primary importance were journal articles and books, which were acquired from JSTOR, Google Scholar, Wiley Online Library, and SpringerLink. These provided theoretical and empirical insight into China's ADR mechanisms under the WTO. For a systematic and unbiased selection of literature, PRISMA guidance was used focusing on WTO ADR relevance studies, empirical contribution, and peer-reviewed journal published.

Additionally, non-academic and gray literature sources such as news articles, blogs, and government publications were not incorporated to keep research pure. This is consistent with the study's purpose of providing academic interpretation on the basis of sole existing literature. The research further considered WTO case files, Chinese legal books concerning mediation, and policy files so that one is able to understand China's emphasis on harmony during the resolution of disputes and the expansive effect that it has had on WTO practice.

Systematic Literature Review (SLR)

To give a very comprehensive basis for understanding the theoretical and practical aspects of ADR in China's WTO practices, this paper conducted a systematic literature review. The SLR methodology made the process clear, structured, and replicable, thereby assuring the strict synthesis of the already existing knowledge (Nightingale, 2009). The selection process for this literature was guided by the PRISMA framework by identifying, screening, and including only the most relevant and high-quality studies (Galeazzi, Sacchetti, Cisbani, & Babini, 2008). First, PRISMA framework was initiated by performing a general search on databases, such as JSTOR, Google Scholar, and Wiley Online Library, using keywords on the topics relating to "China," "ADR," "mediation," "WTO dispute resolution," "harmony in legal practices." Preliminary searches yielded a wide spectrum of studies, which subsequently screened to remove duplicates and focused more proximally toward studies closer to China's ADR practices of WTO contexts.

In screening, 50 articles from their title and abstract were selected with the aim of remaining in tandem with those objectives set by the study. From these 30 articles were selected based on a full-text review. Ultimately a detailed critical analysis was done and 10 high-quality studies based on all the inclusion criteria for thematic analysis only were selected for final research. This step also strictly follows the PRISMA guidelines that ensure systematic, transparent, and replicable literature reviews.

Prisma Framework Application

The Preferred Reporting Items for Systematic Reviews and Meta-Analyses (PRISMA) approach was utilized to guarantee a systematic, transparent, and reproducible process for literature selection and analysis in this research. The PRISMA process was used in the following phases:

Identification Stage

A systematic search was conducted in academic databases such as JSTOR, Google Scholar, Wiley Online Library, and SpringerLink.

Keywords used: "China ADR," "WTO mediation," "harmony in legal practices," "alternative dispute resolution in WTO," "mediation vs. litigation in trade."

A total of 50 studies were initially retrieved.

Screening Stage

Duplicate studies were removed using reference management software (e.g., Mendeley/Zotero).

Abstracts and titles were screened for relevance based on the study's focus on China's ADR mechanisms in the WTO.

Studies that did not directly relate to WTO dispute resolution or China's mediation approach were excluded, resulting in 30 studies.

Eligibility Stage

The full texts of the remaining 30 studies were critically reviewed to determine: Relevance to WTO ADR

mechanisms, Inclusion of empirical analysis or theoretical insights on China's approach, Publication in peer-reviewed journals.

Studies that focused only on general ADR theory without connection to WTO or China were excluded.

This resulted in a final selection of 10 high-quality studies for thematic analysis.

Inclusion Stage

The final 10 studies were used for thematic analysis, categorizing key insights into mediation efficiency, China's harmony-based ADR approach, and enforceability concerns in ADR.

The PRISMA selection process ensured rigor and transparency, preventing bias in literature selection (Table 1).

Table 1. Inclusion and Exclusion Criteria

Criteria	Inclusion	Exclusion
Publication Type	Peer-reviewed journal articles and book chapters.	Non-peer-reviewed sources, opinion pieces, blog posts, and non-academic publications.
Publication Date	Studies published between 2000 and 2024.	Studies published before 2000
Focus on ADR Practices	Studies that discuss China's ADR practices, including mediation and non-litigation methods.	Studies solely focused on technical legal aspects unrelated to ADR practices.
Cultural Context	Studies that explore the concept of harmony in legal or international trade contexts.	Studies without discussion of cultural influences, particularly harmony, or that focus solely on procedural law.
Geographical Focus	Research on China's practices within the WTO context.	Studies not focused on China's practices or those unrelated to the WTO dispute resolution system.
Language	English-language publications.	Non-English language publications.
Relevance to WTO	Studies that address ADR within the WTO dispute settlement framework.	Studies that do not address the WTO context, or focus exclusively on non-trade disputes.
Empirical or Theoretical	Empirical studies or theoretical analyses that provide substantial insights into ADR and harmony in dispute contexts.	Articles lacking empirical or theoretical analysis, or lacking depth in addressing ADR and cultural influences.
Quality and Relevance	Studies screened to select high-quality sources, resulting in 10 articles after PRISMA-based selection process.	Studies that do not pass quality and relevance screening or do not align with research objectives.

Data Analysis

The thematic analysis was applied to the recurring themes of mediation, harmony, and outcomes in dispute resolutions in the selected literature. This comprised a series of structured steps that ensured the analysis remained focused on identifying meaningful patterns relevant to China's ADR practices.

Identifying Relevant Data

A preliminary review of the 10 selected studies has been done to find excerpts of text that refer directly to the study's focus areas, namely, ADR practices, cultural principles, and outcomes on dispute resolution. Concepts relevant to these areas have been noted, such as "harmony in dispute resolution," "mediation efficiency," and "non-litigation advantages."

Classification of Data

The identified concepts were then aggregated into more general headings on the basis of similarities and relevance. For example, cultural values came under the subheading "Harmony in ADR," and things about procedural outcomes under "Effectiveness of Mediation." This provided structure to the data and clarified the

relationship between different aspects of the ADR approach of China.

Theme Identification

Based on the analysis of the above recurring patterns in the data set, key themes emerged. The themes determined to be central to understanding China's ADR strategies were such themes as "Implementation of Mediation in WTO," "Cultural Principle of Harmony," and "Effectiveness of Non-Litigation." Each theme needed cross-checking against the objectives of the research-in other words, ensuring alignment and relevance.

Theme Refinement and Extraction

Lastly, a filtered set of themes was developed based on the extent to which they were relevant to the research questions. This entailed going through each theme in order to ensure it made sense and that the conclusions that could be drawn from the findings and discussion sections would be applicable to support insights such as "harmony as a guiding principle" and "efficacy of ADR in maintaining relationships.". The extracted themes were a solid structured foundation from which to write about insights on China's ADR practices regarding how this informs cultural value and represents support for a more diversified dispute-settlement framework within the WTO.

Ethical Considerations

Ethical considerations were infused in maintaining objectivity and accuracy in this study. Since it was a qualitative research, accuracy while interpreting the official records, legal texts, and policy documents became of paramount importance because every source had to be reviewed with care not to misinterpret nor carry bias, especially when trying to make sense of what 'harmony' could mean. In addition, methodology was transparent by strictly following PRISMA for SLR and maintaining a record of all selection and analysis steps of data. The authors also ensured that no proprietary or confidential information was used but purely public documentation and peer-reviewed literature were referred to in the study. Maintaining these ethical standards, the present study focused on fairly assessing and reporting an unprejudiced analysis of the practices of China's harmony-oriented ADR to ascertain the precise understanding of their role in resolving global trade disputes at the WTO platform.

FINDINGS

Selected Studies for the Research

Table 2. Selected Studies and Findings

Study	Key Findings	Relevance to Study Objectives & Themes
Ertürk and 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 and Gao (2018)	China utilizes mediation to facilitate trade dialogue and maintain stable relations.	Relates to the implementation of mediation in WTO dispute resolution.
Du and D. 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, Y. Peng, and Yu (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.
Y. 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.
C. 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.

Table 2 briefly summarizes selected studies for the research and their findings, the following is a detailed interpretation of the points.

Theme 1: Implementation of Mediation in China's WTO Dispute Resolution

In addition to its measures towards alternative resolution of disputes, China has integrated mediation and non-litigious practices in the WTO for facilitation of more non-confrontational solutions for international trade conflicts. China, since its entry into the WTO in 2001, has been positively promoting the employment of mediation commensurate with its diplomatic and cultural priorities, contended Ertürk and Gabor (2017). In this aspect, China applies mediation to facilitate trade conflicts through the provision of an interaction platform and common knowledge (Shaffer & Gao, 2018). This is consistent with the actions of the WTO in making alternative dispute settlement diversities that are broader than litigation.

One of the most prominent cases showing the application of China within the WTO umbrella on mediation is its dispute with Japan concerning some agricultural products way back in 2002. The two countries opted to arbitrate rather than engage in actual litigation processes. In this manner, the two parties were able to resolve their disputes with each other and, at the same time, sustain their bilateral trade relations with each other. The mediation process helped the parties negotiate and understand each other's concerns to ultimately find a solution in the end (Du & D. Peng, 2024). This outcome demonstrates that mediation can help in achieving a just resolution that may not be achieved through regular litigation.

Apart from the above-mentioned cases, China has also promoted ADR through its declarations of policy and by participating in WTO deliberations. For example, the country has advocated for stronger support towards mediation, among other non-litigation procedures, as part of the revised process for the review of the WTO's Dispute Settlement Understanding and is canvassing for amendments that will provide greater flexibility in approaches to the dispute settlement level (Xiao et al., 2024). This policy position articulates the fact that China supports mediation as an essential component of global trade governance, which complements the WTO's broader objective of maintaining stable trade relations among the member states. Further, China's persistent drive to emphasize ADR methods indirectly forces other nations to accept mediation as a feasible alternative for resolving disputes and thus expand the scope and legitimacy of non-litigation in the WTO (Y. Zhao, 2022).

The implementation by China of mediation reveals its desire to preserve harmonious international relations while safeguarding its economic interests. The decision by China to opt for mediation reduces the risk of suffering economic disruption from confrontational litigation and also indicates its commitment to maintaining trust and cooperation in the WTO. Therefore, China's inclination towards mediation and non-litigation practices has contributed to the diversification of the WTO dispute resolution framework by pushing towards a move away from purely adversarial proceedings towards more collaborative and relationship-oriented solutions (C. Chen, 2022).

Theme 2: Cultural Principle of Harmony in ADR

The harmony principle is, therefore, deeply embedded in the philosophical and cultural heritage of China and thus occupies an important place in the making of China's ADR approach within the WTO. Harmony, as emphasized in Confucianism and Taoism, and rooted so profoundly in balance, social order, and non-adversarial solutions to conflict resolution, seems very elusive (Yao, 2000). This cultural principle influences China's preference for mediation in settling international disputes. This would be the case because mediation allows parties to settle the solutions while preserving bonds that arise from respect and deference for mutual relations (Bell & Ham, 2003). Mediation transcends litigation, which engenders hostility and hence long-term conflict; it is more in line with China's ideal of settling disputes in harmonious ways, putting emphasis on consensus and cooperation.

In reality, the harmony-based approach that China applies manifests in scenarios such as the WTO case on steel products from Japan in 2002. Instead of asking for adversarial litigation, China resorted to mediation, thereby ensuring that a solution would emerge that suited both countries' interests in a way of maintaining favourable economic relations with the other party. This demonstrates how dependence on harmony can allow for the cooperative resolution that would be otherwise retained through strained relationships with litigation. In addition, the cost advantages of China's strategy have been proven since mediation reduces the legal costs and input time for extended disputes filed in court.

This principle of harmony is also evident in the governmental feature of the People's Republic of China, especially in how it strives for "win-win" successes, as reflected in policy talks and commercial deliberations when officials pay more attention to relationship stability rather than assertive formal rights (Lanteigne, 2019). The practice reflects Confucian ideal of "he" (和), which emphasizes the interests of the collective over that of an individual (C. Li, 2006). In harmony, this cultural angle has not only enriched China's approaches toward internal dispute settlement but has also defined its stance in dealing with the WTO's ADR framework under the shadow of

a non-litigation or more relationship-preserving model of managing trade disputes.

Theme 3: Effectiveness of Non-Litigation vs. Litigation

The crucial factor contributing to the realization that China favours ADR is its comparative effectiveness of non-litigation methods, such as mediation, over traditional litigation in the WTO context. Mediation, as opposed to litigation, boasts several advantages - it saves time, makes relations intact, and is flexible in procedure. While litigation typically engages more formal procedures and takes a much longer time to exercise, mediation often has fewer formal procedures and a much shorter timeline, thereby allowing disputing parties to negotiate their terms in more flexible and direct ways, thus resolving cases much faster (Nolan-Haley, 2012). Such benefits are especially important for trade disputes, where prolonged conflict can have severe economic costs on the involved countries.

The same is the situation with a new WTO case against trade restrictions with Australia: mediation assisted China in reaching an amicable settlement over the issue in a timely manner without hurting its crucial trading relationship. Conversely, long-drawn litigation may have put the future economic relations into jeopardy and the parties did not have to bear the costs of high litigations related to international arbitration but also the reputational loss which is often a part of high-profile litigations.

Further, the flexibility of the procedures of mediation permits devised solution cases that cannot easily be accommodated by litigation. Litigation means that the rulings or decisions are mainly based on existing trade rules and previous legal precedents that do not convincingly serve the dispute's unique needs of the disputing parties. In comparison, mediation enables parties to devise creative solutions suitable to the specific nature of the dispute, thus a much more satisfactory result (Moore, 2014). This flexibility has made mediation very appealing to China as it provides the country with the basis to address its peculiar trade concerns while creating a cooperative environment.

Although mediation has numerous advantages as compared to litigation, it has its disadvantages. A mediation outcome is not legally enforceable compared to litigation. This means that in case of failure by one party to implement the terms agreed upon, there isn't any legal mechanism for implementation which may be a disadvantage in cases that require extensive legal certainty. On the other hand, this weakness is compensated by an emphasis on harmony and relationship-building in Chinese tradition. Here, as accorded agreements are honoured more for relationship values rather than because of compulsion, mediation practices have worked very well in settling WTO disputes in an efficient, relationship-building way to the party's cultural goals and diplomatic propensity.

DISCUSSION

Interpretation of Findings

The conclusions drawn in this study strengthen the view that China's ADR approach to WTO dispute resolution is founded on its diplomatic, cultural, and strategic considerations. The facts point towards the fact that mediation and non-litigation have been successfully embedded into China's dispute settlement system, leading to a more diversified WTO dispute settlement framework. Nonetheless, a comparison with the current literature points to both the strength and weakness of ADR in WTO dispute resolution.

China also has actively promoted mediation in the settlement of WTO disputes, which is consistent with its emphasis on stability in trading relations (Shaffer & Gao, 2018; Ertürk & Gabor, 2017). As successful as the use of mediation has been through the instance of the 2002 agricultural disagreement with Japan (Du & D. Peng, 2024), there remains controversy with regard to an extension. Scholars such as Merrills (2017) cite the efficiency of mediation in conserving time in solving disputes, yet its non-enforceability makes it less preferable for WTO disputes requiring legal certainty, as posited by Davey (2014) and Hoekman and Mavroidis (2020).

Another concern involves power imbalances between disputing countries. It has been argued by Bown (2024) that stronger economies can use mediation to avoid legally binding rulings that could be harmful to weaker trading partners. This is different from WTO litigation with stronger legal precedents and enforceability, which is more predictable for complicated trade disagreements. These factors suggest that while mediation is effective, its utilization as a primary WTO tool to settle disputes is questionable.

Theoretical Implications

This study emphasizes the cultural values' role in ADR, particularly in the context of the incorporation of mediation and non-litigation into WTO dispute settlement. Harmony, well rooted in Confucian and Taoist cultures, promotes a group- and relationship-focused culture, but ADR at the WTO level faces tremendous

challenges. The WTO's dispute-settlement system has historically focused on rules-based and litigation-focused processes to provide legal certainty and binding outcomes. The trend toward ADR is opposed by member states that place importance on enforceability, transparency, and predictability of the law as against soft bargaining.

One of the main issues is the non-binding nature of mediation outcomes, which raises concerns about compliance and enforcement. WTO members, especially those with significant economic power, are reluctant to replace or complement litigation with ADR techniques since they fear unbalanced bargaining power, confidentiality risks, and non-standard precedents. Developing nations might also see ADR as serving more dominant states, with the potential outcome of settlements that are not legally secure or stable in the long term. Additionally, institutional resistance within the WTO, along with reluctance on the part of legal professionals to move away from settled jurisprudence, might impede the uptake of ADR.

This study contributes to the overcoming of these problems by advocating a convergent model for dispute settlement integrating both ADR and litigation. By indicating China's success with mediation, this research presents empirical data capable of guiding the WTO in planning ADR models incorporating built-in mechanisms such as transparency measures, third-party monitoring, and mixed modes blending ADR with traditional adjudication as necessary. Furthermore, institutional reforms—such as capacity-building initiatives for smaller economies, institutionalized mediation processes, and enhanced enforcement mechanisms—can assist in lowering resistance to the implementation of ADR.

In advocating a diversified WTO system of dispute settlement, this research provides policymakers with a path forward in surmounting institutional opposition while gaining greater acceptance of mediation. By addressing concerns about enforceability, fairness, and systemic consistency, the research builds inclusion of ADR as a stable, cooperative alternative that complements traditional legal recourse without undermining WTO's essential principles.

Policy and Practice Implications

China's promotion of mediation and non-litigation may in turn force the WTO to adopt a more diversified dispute resolution framework with a balance between formality-litigation flexible ADR approaches. This, in turn, might propel more WTO members to resort to non-litigation as an equally viable form of dispute resolution in trading disputes, thereby altering the form of dispute resolution to accommodate negotiation and more cooperative dispute settlement within the WTO context. It will reduce the backlog of cases for the WTO and remove pressure on the Appellate Body to make it a smoother process for dispute resolution. It might also encourage the participation of smaller economies in dispute resolution as ADR methods do not entail litigation and its related financial burdens. The relational focus of ADR further empowers the WTO to engage in constructive diplomatic dialogue rather than remaining purely as an institution enforcing the rules (Jones, 2023).

This harmony-based approach for China restores its positioning as a cooperative conflict resolution advocate at the international level in tandem with its foreign policy and economic interests. By integrating harmony into its trade policies as well as ADR, China can build itself as an international peacekeeper and stabilizer, therefore enhancing its influence at the WTO. Such an approach also helps China develop closer bilateral relations with its trading partners who may be thankful for the fact that Beijing has promised to maintain relational stability. Consequently, as China continues to challenge WTO-member countries toward harmony-based ADR, then it will only have demonstrated an example for those countries seeking alternative dispute settlement mechanisms which are not as confrontational in nature (Scott & Wilkinson, 2017).

Recommendations

To further institutionalize harmony-based ADR practices at the WTO level, China and other like-minded countries should start their campaigns to lobby for systematic reforms of its procedural mechanisms by adopting mediation and conciliation as formal options for all kinds of trade-related disputes. Training programs should be introduced to familiarize WTO staff members with culturally relative methods of ADR, thus promoting flexibility between traditional legal approaches and ADR. An effective ADR framework at the WTO should also be presented to trigger a climate of acceptance of mediation, thereby presenting an option available to varied member states and especially cooperative-friendly ones in international relations. It should be adapted similarly to China's harmony-oriented policy line that makes the WTO more agile and better fit to handle a vast array of issues that might be complained of as violations of trade rights, therefore reducing dependence on litigation processes that may be hamstrung by adversarial mechanisms (Zhu, 2020; Lanteigne, 2019).

Limitations and Future Directions

This study relies on secondary academic literature. This creates a limit by restricting access to confidential or in-depth information on WTO cases. Future research could potentially include interviews or primary data from

mediators and officials involved in WTO disputes to delve further into the applications of ADR. As it only focuses on China, this study also has the limitation that generalization of the findings to other countries which have different cultural values and ADR frameworks might not be feasible. Other cultural and economic frameworks can provide a meaningful comparison as one identifies strength areas and challenges in the China model.

Future research may include cross-country ADR outcome comparison across the WTO as a means of better understanding how the values embedded in local cultures play a role in resolving disputes in international trade. The analytical effectiveness study of ADR for cases involving smaller economies before the WTO may also describe possible benefits of out-of-court settlement for poor countries. Such a broad view of ADR can give important insights regarding the versatility and limitations of harmony-seeking practices in any kind of trade and diplomacy paradigm (Jones, 2023; Womack & Hao, 2015).

CONCLUSION

This study underlined the specifics of China's approach to ADR in the WTO, more specifically through the inclusion of mediation and other non-litigation means. Results of the research indicate that an attachment to harmony as a concept deeply instituted into Confucian philosophy characterizes significant portions of China's world view, thereby seriously influencing its preference for ADR over traditional litigation. As evident through the agricultural conflict dispute case by China against Japan, mediation ensures efficient achievement of un-confrontative goals in preservation of relations far better than its judicial counterpart in litigation. An approach in favour of the nature of values practiced in China follows by implication similar support towards the ultimate mission of the WTO, which is sustained trade relationships. China's harmony-oriented ADR practice is one paradigm toward fostering cooperation-oriented and less confrontational settlement of disputes in international trade. The emphasis adopted by China towards non-confrontation resolution facilitates a diplomatic relational way towards the achievement of some manner of prevention in prolonged disputes and towards further continued economic co-operation among members of the WTO. The conclusions of this research highlight the significance of ADR and yield valuable lessons about harmonious relationships among nations, which may indeed identify mediation's vital role in promoting mutual understanding and maintaining international harmony, especially in a rapidly interconnected economy. It is possible that, in the future, ADR techniques, especially mediation, will gain greater acceptance in the WTO regime. As the WTO undertakes reforms to its dispute settlement mechanisms, efforts by China in espousing ADR may lead more member states to endorse mediation as a complement to formal litigation. Enhanced acceptability of mediation shall reduce procedural inefficiencies and contribute to making trade disputes less adversarial, in turn toward a more diversified and cooperative dispute settlement system. China's harmony emphasis thus gives the perspective of great value if adopted by nations around the world to help shape a more inclusive and harmonious approach to global trade governance.

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ETHICAL DECLARATION

Conflict of interest: No declaration required. **Financing:** No reporting required. **Peer review:** Double anonymous peer review.