CONTENTS

Preface	page vii
Introduction to this handbook	ix
List of abbreviations	X
Table of cases cited in this publication	Xi
Introduction to the WTO Dispute Settlement System	1
Importance of the WTO Dispute Settlement System	1
The Dispute Settlement Understanding	1
Functions, objectives and key features of the dispute settlement system	2
Participants in the dispute settlement system	9
Substantive scope of the dispute settlement system	10
Developing country Members and the dispute settlement system	11
Historic development of the WTO Dispute Settlement System	12
The system under GATT 1947 and its evolution over the years	12
Major changes in the Uruguay Round	15
WTO Bodies involved in the dispute settlement process	17
The Dispute Settlement Body (DSB)	17
The Director-General and the WTO Secretariat	20
Panels	21
Appellate Body	22
Arbitrators	24
Experts	25
Rules of Conduct	26
Legal basis for a dispute	28
Legal provisions in the multilateral trade agreements and the DSU	28
Types of complaints and required allegations in GATT 1994	29
Types of dispute in the other multilateral agreements on trade in goods	35
Types of dispute in the GATS	35
Types of dispute in the TRIPS Agreement	36
Disputes on Articles I to XVI of the WTO Agreement and the DSU	37
Possible object of a complaint – jurisdiction of panels and	
the Appellate Body	38
Article 1.1 of the DSU	38
Action and inaction; binding and non-binding acts of Members	39

Only governmental measures of Members?	40
Measures taken by regional or local subdivisions of a Member	40
The possibility of challenging laws "as such"	41
The process – stages in a typical WTO dispute settlement case	43
Consultations	43
Flow Chart of the Dispute Settlement Process	44
The panel stage	47
Adoption of panel reports	61
Appellate review	63
Adoption of the reports by the Dispute Settlement Body	74
Implementation by the "losing" Member	75
Non-implementation	80
Compensation	80
Countermeasures by the prevailing Member (suspension of obligations)	81
Surveillance until final implementation	86
Special procedures for non-violation and situation complaints	86
Legal effect of panel and Appellate Body reports and DSB	
recommendations and rulings	88
Legal effects within the context of a particular dispute	88
Legal status of adopted/unadopted reports in other disputes	90
Dispute settlement without recourse to panels and	
the Appellate Body	92
Mutually agreed solutions	92
Arbitration pursuant to Article 25 of the DSU	95
Participation in dispute settlement proceedings	97
Parties and third parties and principle of confidentiality	97
Legal representation	97
Amicus Curiae submissions	98
Legal issues arising in WTO dispute settlement proceedings	101
Standing	101
Claims versus arguments; autonomous reasoning of a panel	101
Necessity for the respondent to invoke exceptions	102
Judicial economy	102
Standard of review	103
Burden of proof	105
The panel's right to seek information	106
The nature of domestic legislation as an object of a dispute	106
Developing countries in WTO dispute settlement	109
Developing country Members in dispute settlement – theory and	
practice	109
Special and differential treatment	111

	Contents
Evaluation of the WTO dispute settlement system: results to date	116
Statistics: the first eight years of experience	116
Achievement of the objectives?	116
Strengths and weaknesses	117
Current negotiations	118
Further information	119
Glossary	119
Information and documents on the WTO Website	120
Reference books	120
Contacting the WTO	120
Annex: Legal Texts	122
Provisions on consultation and dispute settlement in GATT 1994,	
GATS and the TRIPS Agreement	122
Understanding on Rules and Procedures Governing the Settlement of	
Disputes	125
DSB Practices	152
Example of Panel Working Procedures	154
Working Procedures for Appellate Review	157
Communication from the Director-General on Article 5 of the DSU	179
Decision of 1966	185
Decision of 1989	188
Index	190