

Wiley Commends USTR Report on Systemic Problems With WTO Appellate Body

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Washington, DC – Alan H. Price, chair of Wiley’s International Trade Practice, commended a new report issued today by the Office of the United States Trade Representative (USTR) identifying systemic problems with the World Trade Organization’s Appellate Body.

“This report is a comprehensive and compelling statement regarding the failure of the Appellate Body to respect the rules established by WTO Members, with substantial negative consequences for American companies and workers,” Mr. Price said.

USTR’s report notes that complaints about the conduct of the WTO Appellate Body go back two decades, and the Appellate Body’s decision-making has concerned the U.S. Congress, the White House, and both political parties. Covering disputes involving a range of issues, from trade remedies to technical regulations, the report indicates that these disputes are indicative, not exhaustive.

In addition, the report shows that WTO Appellate Body overreach has stretched out the time it takes to resolve a dispute. “The dispute settlement system was intended to be limited, expeditious, and targeted at consultations and resolving disputes,” Mr. Price noted. “Instead, due to the Appellate Body’s own actions and rulings, it has become expansive, slow, and a creator of new obligations on WTO Members.”

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Practice Areas

International Trade
World Trade Organization (WTO)

USTR specifically addresses the WTO Appellate Body's rules in the context of non-market behavior by Members such as China. "China's mercantilist behavior has woken many up to the threat that non-market behaviors pose to the proper functioning of the global economic order," Mr. Price said. "But by making it harder for WTO Members to address the adverse consequences of state capitalism, the Appellate Body has made itself an obstacle to fixing the problem - and has weakened the incentives for WTO Members to negotiate on this and other key issues."

The report can be read [here](#).