Latin America and the WTO: Assessing international trade disputes

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Summary

The aim of this thesis is to investigate the outcomes of the participation of Latin American countries in the WTO dispute settlement system. The central question of this research is whether participating and prevailing in trade disputes leads to an increase in trade flows between the complainant and the respondent country. The research was conducted through a case study approach which investigated a set of disputes involving countries in Latin America against high-income countries. For each of the selected cases, the analysis focused on trade flows of the relevant goods as well as case-specific interfering factors which might have affected the level of trade between the complainant and the respondent country. The research found that prevailing in WTO trade is not accompanied by an increase in trade between the two countries.
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1. Introduction – Trade flows and trade disputes

1.1 Arbitrating international trade

Since its establishment in 1995, the World Trade Organization (WTO) has constituted a forum in which member countries could negotiate trade agreements and settle trade disputes. The Dispute Settlement Mechanism (DSM) has been created as a means to enforce international agreements, guarantee compliance and level the power imbalances between participating states (WTO, 2019). Up until now, more than 500 disputes have been initiated. The role of the actors operating in the dispute settlement mechanism should be that of an impartial arbiter who seeks to restore balance and equity amongst the litigating parties. However, many scholars have pointed out that this is most often not the case. It has been argued that, despite the official documents and the initiated practices, there are informal governance mechanisms in place within the WTO which jeopardize its impartiality (Bown, 2005; Nordstrom and Shaffer, 2008; Shaffer, 2005). A growing number of developing economies and rising powers – fuelled by the lack of trust in the WTO’s effectiveness - are turning to mini-lateral and regional agreements to foster their trade and promote their interests in the global scenario (Ravenhill, 2017). This has become even more salient following the deadlock on the Doha round negotiations; indeed, it can be argued that the growing scepticism in multilateral organisations has been one of the main determining factors of the current impasse. This general trend of disengagement is harming the true nature and effectiveness of the WTO as a whole.

The Dispute Settlement Mechanism (DSM) has been established in order to guarantee members’ compliance with trade agreements signed within the WTO. In case a member believes that one of the trade agreements has been violated or poorly implemented by the counter-party, it can resort to the DSM in order to defend its rights. The first step is the consultation stage, in which the involved parties discuss the alleged violation and attempt to find a mutually agreed solution without involving a third party. If these negotiations fail to reach an agreement, the following stage is the constitution of a panel. The panel is the legal body which will be judging and ruling over the dispute. One of the involved parties can appeal the panel report on the basis of legal matters; in such case, the Appellate Body carries out an investigation whose output is an Appellate Body Report. This report can uphold, modify or reverse the rulings of the original panel report. Once the panel or Appellate Body report has been formally adopted, the parties involved are legally bound to implement its rulings. In case of further non-compliance with the panel report, the violated party – under Article 22 of the WTO Dispute settlement understanding – has the right to impose sanctions on the counterparty, usually in the form of suspension of previous concessions or other obligations. The rules allow for retaliation to affect sectors which are different from the one(s) originally involved in the dispute, which means that its effect might extend to goods and services which are not directly related to the object of the trade agreement which has been violated. This allowance increases the potential scope of retaliation and makes it less linear to evaluate the effect of disputes on trade, meaning that the relevant trade flows for each dispute can be more than the one which would be immediate to consider. Therefore, a correct
analysis of the effect of a single dispute on trade requires going beyond the trade sector which was the object of the litigation.

Despite the fact that the DSM has been established with the aim to avoid one member unfairly overpowering the other, the current debate does not consider this institution as fully effective. The idea is that a small group of ruling countries ‘have it all’ at the expense of the rest of the members and that the current rules of the DSM are designed to foster this power imbalance (Bartels, 2013; Davis & Bermeo, 2009; Moonhawk, 2006; Nordstrom & Shaffer, 2008; Shaffer, 2004). The inequality is enhanced by the fact that sanctions do not affect all countries equally; indeed, sanctions do not bite the most powerful members within the WTO, while having a great effect on smaller economies. Thus, the power that certain member states can have over others is not limited to a formally prevailing in the dispute. A formal win does not imply an actual benefit in economic terms. This is especially true when it comes to developing countries, which – due to their limited economic and legal capacity – have a limited ability to reap the benefits of the WTO rulings compared to developed economies.

This research will investigate whether a formal win in a dispute has translated into economic gains for the country at hand. Specifically, Latin American countries will be chosen as the sample of analysis. The reason behind this choice is twofold. First, the region has intensively engaged in trade with the United States, which is regarded as one of the most powerful players within the WTO (Shaffer, 2005; Wilkinson, 2011). Therefore, finding imbalances in the outcomes of disputes might tell something about an uneven power balance which might be affecting the DSM. If such a result is indeed found, it can be expected that similar dynamics are in place with regards to other countries or regions which have intense trade relations with the United States. Secondly, Latin America constitutes an interesting case study given its peculiar state of development. Indeed, the region lacks homogeneity and comprises countries ranging from low-income to higher-middle-income, which does not allow to define all of the countries in Latin America as fully developed. These two elements combined make this region both a representative and an interesting case to analyse.

1.2 Research objectives

The aim of this paper is to further the conversation on the effectiveness of the dispute settlement system by discussing whether winning in disputes – formally referred to as ‘prevailing’ - has indeed brought benefits to the countries at stake. It will provide an analysis of relevant cases with a particular focus on the outcomes of the dispute settlement. It will, then, interpret the results of such analysis and seek to explain the reason behind the outcomes of being the prevailing party in the DSM. The final objective is to provide an insight into the functioning of the dispute settlement and spark the discussion on the effects of the litigations and WTO rulings on trade.

1.3 Research question

Given all of which has been stated above, my research question articulates as follows:
How does prevailing in WTO disputes against developed countries influence trade of Latin American countries?

The above research question will be further specified by the following set of sub-questions:

- How can trade be affected by dispute settlement?
- What is the existing theory and evidence on the relationship between DSM and trade?
- What is the nature of Latin American countries’ participation in the DSM?
- What is the effect of winning disputes on relevant trade flows for Latin America?

1.4 Research approach

The first three sub-questions will be answered with a theoretical approach; I will make a review of the existing literature on the topic and summarise the main findings. The fourth sub-question is empirical; therefore, the answer will be found by analysing data. This will constitute the very core of my study and will lead to the answer to the main research question.

The first sub-question deals with the functioning of the DSM. I will briefly explain the rules and procedures that characterise the DSM in order to introduce the environment in which the analysis will be taking place. I will introduce the main actors in dispute settlement and identify their functions. The aim of this sub-question is to give the reader a preliminary overview of the mechanism and to clarify how being recognised as a winning party in a dispute can affect trade between the winning country and the respondent. Although aiming to be complete, this section will be limited in length; first not to bore the expert reader and secondly because a detailed account of the dispute settlement process would go beyond the aim of this paper.

The second sub-question will engage with the literature. I will investigate what empirical studies have found on the effect of winning disputes on trade flows. I will analyse the existing literature to find what is already known on the topic and what the evidence suggests on the relationship between the two variables. According to the DSM rules and principles, such a relationship should exist and be positive - winning a dispute and the subsequent lowering of trade barriers on behalf of the respondent should foster the trade flows of the complainant. The aim of this sub-question will be to determine whether this theoretical link is found in empirical observations as well.

To answer the third sub-question, I will provide an overview of how Latin American countries have been participating in the DSM thus far. I will analyse existing studies, working papers and newspaper articles about the activity of Latin American countries with regards to disputes initiated within the WTO. This section will be focusing on who are the main complainants amongst LAC, whom are disputes most often addressed against,
which are the most common issue areas. This preliminary analysis will be helpful to gain an understanding of the action of countries belonging to the region, the main actors and the current trends.

Finally, the fourth sub-question will be dealing with empirical analysis. I will employ data from the WTO database as well as data from national and international databases on trade. I will assess whether the theoretical link between winning litigations and trade is found in practice with regards to the selected countries. I will focus on countries belonging to the Latin American region who have engaged in disputes and have been regarded as a winning party and I will see whether the formal win in the WTO forum led to an effect in relevant trade flows between the complainant and the respondent. The combination of the previous theoretical sub-questions this final sub-question will conclude my analysis by answering the main research question.

1.5 Research design

In order to investigate the matter at hand, I chose to structure my research in a qualitative manner. Specifically, I will run a case study analysis on disputes issued and won by Latin American countries. I will then evaluate whether prevailing in disputes had a positive effect on the trade of the selected countries. In order to do that, I will focus on relevant trade flows, meaning the trade flows which are likely to have been affected by the dispute. The analysis will seek for positive or negative trends in trade flows. Following that, a general assessment on the effect of prevalence in the dispute will be done for each of the cases. Finally, this research will look into the possible explanation for the observed dynamics, in an attempt to draw a comprehensive picture from the observations.

The research will be conducted as follows. As the first step, the relevant set of countries will be defined. As stated above, I will focus on countries within the Latin American region. Due to the available data, I will only consider sovereign states; therefore, my initial sample will be composed of the twenty states belonging to the region. I will then begin to operationalise my research by selecting relevant WTO disputes involving the aforementioned states. The selection of relevant cases will be made according to the research I mean to carry out and the conclusions I intend to achieve. In order to evaluate the impact of trade disputes over trade, I will need to select disputes which – in their outcome – have the potential to cause an increase in trade in the relevant sectors. At the same time, I will choose cases in which Latin American countries had an active role as a complainant; thus, I will be able to establish whether there is indeed a relationship between active participation in WTO disputes and trade. Given all of the above, the relevant cases will be selected according to the following criteria:

1. Disputes in which Latin American Countries are complainants and won;
2. Disputes issued by Latin American countries towards a high-income country;
3. Disputes whose related measures have been implemented or in which retaliation has been authorised and implemented.

The cases which respect all of these four criteria will qualify for this study. For the sake of scientific reliability, additional criteria will have to be met; those will be specified in a subsequent chapter.
With regards to the dependent variable; the effect of the dispute on trade will be evaluated by analysing the trend of relevant trade flows before and after each dispute, in order to appreciate any differences. The relevant trade flows will be selected singularly, for each case study. This way, a more appropriate and fitting selection will be made.

In order for such a research to be conclusory, the study should also include a control mechanism. In our case, there is the need to verify whether the absence of correlation between prevailing in disputes and increased trade flows found with regards to LAC holds true in the opposite case; specifically, whether losing in a WTO dispute affects trade flows between complainant and the respondent with regards to countries in the Latin American region. Ideally, I would apply the same methodology used for the data analysis to the control cases to assess the impact of losing in disputes on trade flows. The question to be answered is complementary to the main research question: “How does losing in WTO disputes against developed countries influence trade in Latin American countries?”

However, such control happens to be impossible to perform at the present moment. Indeed, there is no single case in the WTO history which matches all of the criteria which would allow for it to qualify as the control case. To this day, every dispute issued by a Latin American country against a developed country has always resulted in a ruling (in the form of a Panel or Appellate Body report) which stated that the respondent had indeed violated the WTO agreements. To be concise, we might say that those amongst LAC who complained have always prevailed.

Putting qualitative evaluations on this evidence aside, as a matter of fact such kind of control was impossible due to unavailability of cases. This is the reason for the absence of a quantitative control analysis in this research. Indeed, if a case which satisfies all of the criteria ever occurs in the future, this might constitute a ground for the improvement of this research design.

1.6 Academic relevance

The scientific relevance of this study is given by the lack of relevant literature which runs an ex-post evaluation of the effect of prevailing in WTO disputes. Most of the existing studies tend to focus on the balance of power – or, rather, lack thereof – within the WTO’s institutions; they do so by evaluating the rules in place and highlighting the weak participation of developing countries to the DSM. Plenty has been said on the potential effectiveness of the DSM, but not much on its actual effects on trade. Furthermore, studies which analyse countries and regions in depth are lacking. This paper aims to add to the academic debate by investigating the matter from a different angle. Lastly, I seek to contribute to the research by offering a detailed overview of what winning in disputes entails for trade in the analysed countries and hopefully provide a more precise and comprehensive insight than what has already been done.

1.7 Societal relevance
The results of this research would serve both countries in the Latin American region and the other members of the WTO. First, the answer to the proposed research question could provide an indication for Latin American countries as to whether it is optimal to continue engaging in multilateral organizations for the settlement of disputes or whether it would be more advantageous to shift focus and resources towards different kinds of cooperation, such as Regional Trade Agreements (RTAs).

Furthermore, the issue at stake is salient in order to gain a better understanding of the functioning of the WTO with regards to Latin American countries and to evaluate whether the current system is beneficial for them or not. The results are relevant both for the major players in the WTO – the so-called “established powers” - and for the members with weaker economies. The former might gain an insight into the effect of their action within the WTO’s DSM. The latter might be better able to evaluate the costs versus the benefits of engaging in multilateral organizations. The issue is relevant also with regards to the current challenges to multilateral systems posed by the wave of nationalism affecting several countries throughout the world, which is increasing the scepticism around the effectiveness of multilateralism. An assessment of the performance of the WTO with regards to Latin American countries could contribute to the debate by supporting the doubts or providing evidence of their inconsistency.

The results could be used as guidance for a reform of the current DSM, in a way which is more beneficial to less economically developed countries, or as the proof that the system has fulfilled its goals.

1.8 Thesis outline

This paper will be structured as follows. In the next section, a literature review will be conducted, in order to explore the existing studies on the relationship between dispute settlement and trade and on the more or less successful participation of Latin America in disputes. The aim of the literature review will be to identify what is currently known on the topic and to present the most relevant theories. At the same time, the empirical evidence on the topic will be introduced, in order to provide a preliminary overview of the mechanisms which have been found to be in place. After that, the paper will focus on the operationalisation of the research. Chapter 3 will be dedicated to the selection of the relevant cases and on the methodology employed for the analysis. Each of the choices will be discussed and justified. In chapter 4 the case-study analysis will be performed according to the structure which has been designed and argued in the previous chapters. The results will be interpreted for each case and an overall evaluation will be provided. The following section will deal with the ‘why’ question; it will seek to provide a possible explanation for the trends and patterns observed in the analysis. Finally, the last section will conclude the paper by providing a comprehensive answer to the research question and sub-questions, as well as discussing the implications of the results of the research and the limitation of the research itself. In this section, suggestions for further investigation will be proposed.
2. Literature review – The WTO, dispute settlement and Latin America

2.1 Introduction

This chapter will deal with the analysis of the existing literature on the topic of this research. It will engage with both theories and evidence on the relationship between WTO Dispute Settlement and trade. Additionally, it will cover the existing studies on the role of Latin American Countries with regards to disputes.

As stated in the previous section, the research question articulates as follows:

*How does prevailing in WTO disputes against developed countries influence trade in Latin American Countries?*

2.2 How can trade be affected by DSM?

The first part of the chapter will deal with the first sub-question and will shed a light on the potential effects of disputes on trade. Specifically, the question is what the jurisdiction of the WTO and of the Dispute Settlement bodies is on the trade regulation of each member. In order to do so, it is useful to run a preliminary review of the functioning of the DSM. The following information has been taken from the Handbook on the WTO Dispute Settlement System.

Dispute Settlement System has been created with the aim to prevent international trade conflict and to mitigate power imbalances; as well to ensure compliance with WTO rulings and the stability of the multilateral trade framework. It has been established, together with the WTO, as a result of the Uruguay round (1995), in order to solve the weaknesses of the way disputes were settled in the GATT. Indeed, in the original GATT, there was no unique dispute settlement mechanism in place; instead for every agreement a distinct set of rules regarding the resolution of conflicts was in place— a mechanism referred to as “GATT-à-la-carte”. This created a dispersion which failed to provide a unique framework. The innovative character of the DSM is that it is the sole authority for settling trade-related issues amongst the WTO members and it applies to all of the agreements signed under the WTO. The set of rules which define how the Dispute Settlement System works are set in Annex 2 of the WTO agreement, under the name of Dispute Settlement Understanding (DSU).

The main organ responsible for the DSM is the Dispute Settlement Body (DSB), which is composed of representatives of the governments of every WTO member. It has jurisdiction on the main aspects of the DSM. The DSB decides by consensus, except for three of its core functions: (i) Establishment of panels, (ii) Adoption of the panel and Appellate Body reports and (iii) Authorisation of retaliation. For each of these, the decision rule is negative consensus: the decision is adopted unless the members unanimously agree to stop the procedure.

Every time a WTO member feels that its rights have been violated by a measure which is inconsistent with the WTO agreements, it has the right to initiate the dispute process. As stated in the DSU, a member is entitled to
complain whenever it thinks that “The benefit accruing to an agreement has been nullified or impaired”. The DSM has the authority to address:

a. Violation complaints: the complainant accuses another member of having failed to carry out its obligations.

b. Non-violation complaints: the complainant challenges any trade-related measure, even if such does not conflict the GATT.

c. Situation complaints: The complainant challenges any other situation which results in nullification or impairment of the benefits accruing to an agreement.

The dispute settlement process opens with bilateral consultations between complainant and respondent. This preliminary stage serves as a mean to encourage the independent settlement of trade-related issues. Only if negotiations fail to provide a satisfactory agreement between the two parties within sixty days, the process transitions into a full-on dispute settlement with the establishment of a panel. The panel is composed of three or five experts selected ad-hoc for each dispute. This is meant to ensure equality and fairness in the adjudication process. The negative consensus rule which applies to the establishment of the panel carries an important consequence: if at least one member – including the complainant itself – is in favour of the establishment of the panel, there will be no way for the other parties in the DSB to block this decision. The panel will issue a report in which it summarises the factual and legal allegations and arguments. If a violation is indeed found, the report also includes recommendations on how to bring the concerned measures back to conformity with the challenged agreements. The report is binding only after the formal adoption on behalf of the DSB. In order to prevent its adoption, either of the parties involved can appeal the report, if it finds inconsistencies on legal matters. If that is the case, the process enters into the Appellate Review. The Appellate Review is carried out by the Appellate Body, which – unlike the panel – is a permanent body composed of seven members. Its task is to review the legal aspects of the panel report and, based on the analysis, to uphold, modify or reverse it. The Dispute Settlement Body will then adopt the Appellate Body report unless its members agree against it by negative consensus. Once the report is adopted by the Dispute Settlement Body, the concerned parties are to implement the recommendations it contains, within a pre-established "reasonable time period"; the task of overseeing the implementation of the report belongs to the DSB. Implementation generally consists of removing the barriers or the measures which have been challenged by the complainant.

The DSM has established a set of rules to be applied in the event of non-compliance with the panel and Appellate Body rulings. The path that can be followed in this case is twofold: the complainant is entitled to resort to temporary measures, which consist of either compensation or suspension of obligations. In the first case, the parties agree upon compensation to the benefit of the complainant – often in the form of lowering trade barriers - which should be consistent with the GATT agreements. This provision has a crucial consequence: given the existence of the MFN principle, whatever concession made by the respondent to the complainant should also be extended to every other WTO member. If the complainant party chooses to deal with non-implementation by imposing countermeasures, the DSB can authorise it to “unilaterally suspend concessions”, in other words, to
impose trade sanctions on the counterparty. This last option is referred to as ‘retaliation’. Unlike compensation, retaliation allows the complainant to keep control of the conditions until the respondent satisfies Article 21.5. The DSU also states that the entity of retaliation must be equivalent to the level of nullification or impairment caused by the challenged measure. This provision ensures proportionality in the retaliation system.

Anderson (2002) argues that one of the reasons why compensation is not preferred to retaliation is that the MFN principle reduces the positive effect of concessions to the complainant, as third countries will be able to export more to the respondent. Another reason which explains this preference is that choosing compensation over retaliation allows the respondent to have more control over the process compared to the case of retaliation. Indeed, the concessions made as a result of a case of non-compliance can be voluntary (according to article 22.1 of the DSU), which implies that the party making the concession can revoke it once the policy which was the object of the dispute has been changed.

The way the system is currently organised is not exempt from criticism. Brutger and Morse (2015) find that arbitration is not impartial: panellists are subject to career incentives which have the potential to influence the rulings. Specifically, the authors argue, panellists are more likely to be merciful towards the biggest players (the US and the EU) by restricting the negative effects of judgements against those actors. Panels may accommodate the trade interests of the main players in order to promote their career advancements.

Another potentially problematic aspect lies in the voluntary nature of the WTO membership. Member states are not legally bound to adopt the recommendations. Indeed, the WTO – being a voluntary association of states - does not hold the power to impose incarceration on its members. In the words of Bello (1996), the WTO has “no jailhouse, no bail bondsmen, no blue helmets, no truncheons or tear gas”. Instead, the parties spontaneously agree to respect the rulings. As a consequence, the image associated with the WTO is one of “an empty toolbox” (Charnovitz, 2001). At the same time, the lack of ability to impose legal repercussions does not necessarily translate into a weakness for the entire system. On the contrary, Rosendorff (2005) underlines that the self-enforcing nature of agreements enhances the effectiveness of the DSM despite the lack of legal enforcement powers. Reinhardt (2001) contributes to this point by reflecting on the factors that might lead states to compliance in the absence of legally binding mechanisms. His conclusion is that the system is effective because it is cheaper – in terms of opportunity costs – to make trade concessions rather than to risk retaliation. Therefore, the idea that retaliation might happen is a powerful enough mechanism to maintain compliance. The threat of a ruling affecting trade interests creates a situation of uncertainty under which states are more likely to cooperate.

On the topic of retaliation, Rosendorff (2005) argues that the proportionality criterion is a fundamental feature to ensure cooperation in conditions of uncertainty. On the other hand, it must be noted that the estimation of losses caused by trade-restricting measures is not a simple calculation. Breuss (2005) investigates the current challenges of the model by analysing the main disputes occurred between the EU and the US. He concludes that the current retaliation system is made unreliable by the difficulty of making a truthful estimation of the level of nullification or impairment. Indeed, this estimation is made by comparing the actual level of imports vis-à-vis the imports which would have happened in the absence of the challenged measure. Such analysis has to make assumptions and hypotheses on the counterfactual, which are likely to lead to estimation errors. As a result, the level of damage is
nothing more than an approximation of possible loss. Furthermore, we encounter the problem of monitoring and control: once a tentative level of damage has been established, there is no organ whose task is to control whether the impact of retaliation fits within these boundaries.

In addition, the situation is further complicated by the issue of trade sectors. The DSU states that the complainant should first seek to suspend obligations in the sector to which the challenged measure pertains. However, if this is deemed impractical or ineffective, the complainant is allowed to impose sanctions on a different sector. This way, the impact of the dispute can be extended to third sectors which were not originally involved in the dispute. Furthermore, it is also worth mentioning that goods formally pertain to the same sector: that is to say, if country A is found guilty of violating the agreements on bananas, country B can retaliate by imposing sanctions on beef; despite constituting different markets, the two goods would not be considered as belonging to different sectors. One additional point is related to the economic effect of sanctions. Even though sanctions have the potential to generate long-term economic gains for the country imposing those measures – although it is not sure that it will -, the short-term effect will likely be a cost. Making use of the example of the Hormones and Bananas cases (DS26 and DS27 respectively), Charnovitz (2001) highlights how imposing sanctions can create some efficiency losses which are often underestimated by the sender, but result, nonetheless, in an economic loss. Another critic comes from the same author, who underlines the inconsistency between the WTO trade liberalisation credo and the possibility of imposing trade-restricting sanctions. Indeed, this inherent contradiction is enough to question the appropriateness of such a system. Scholars have wondered whether retaliation is to be considered the optimal solution to ensure compliance. The general opinion on the matter has been summarised by Pascal Lamy as a European Commissioner for Trade:

“The key enforcement mechanism, that of sanctions, is starting to show some limits to its effectiveness. It would be good to think that we could find a way of ensuring WTO conformity without getting into the business of distorting trade flows which stem from sanctions. That said, the current system is all we have to enforce compliance, and I certainly cannot and will not tell you today that we renounce the instrument in the absence of better ideas.”

(Pascal Lamy, 2001)

To conclude, it seems that, despite the WTO having no power to legally bind its members, the Dispute Settlement System has many ways to influence trade flows. Such influence does not only concern the goods and sectors which are directly linked to the dispute but can extend to sectors which are formally unrelated to the challenged measures. In order to properly evaluate the impact of disputes on trade, then, it is useful to evaluate the relevant trade flows on an ad-hoc basis.

2.3. What is the existing theory and evidence on the relationship between DSM and trade?

After a general discussion of the rules governing the DSM, the next question that needs to be answered is whether participating in one of the fundamental mechanisms of the WTO affects trade and, if so, in which way. The
expectation that such a link exists stems from the fact that the aim of the DSM is to bring trade practices under the – liberal – WTO standards. As a consequence, the settlement of a dispute and compliance with the WTO ruling should have a positive effect on trade flows, by removing the barriers which hamper free trade (Bechtel and Sattler, 2015; Chaudoin, Kucik and Pelc, 2016). Furthermore, the assumption that disputes increase trade seems to belong to the private sector as well. Davis and Shirato (2007) suggest that private firms lobby their national governments for engaging in disputes, guided by the idea that this will foster their business. The studies on the matter have investigated the issue by adopting a quantitative approach. Most of the analyses estimate the effect of winning disputes by looking at the changes in the level of goods imported by the respondent from the complainant. The expectation is that, if import levels rise, the measures which resulted from the panel’s rulings have been successful in restoring the balance and increasing market access for the concerned goods. Bechtel and Sattler (2015) analyse the effects of litigation within the WTO with specific regard to the complainant’s position. They study the bilateral trade flows of countries which engaged in disputes, focusing on the flows from the complainant to the respondent. The results of the study are generally encouraging; indeed, they estimate a beneficial effect of 7.7 $ billion worth of additional trade flows from the complainant to the respondent as a result of a panel ruling. This beneficial effect does not only apply to the bilateral trade flows between respondent and complainant but also involves members who take the role of third parties in the dispute. Members who side with the complainant gain more from the dispute than those who remain neutral. This finding is interpreted as the evidence of a positive spillover effect, thanks to which multiple members can prosper. Therefore, not only the system would be beneficial and effective for the involved parties, but its benefit might accrue to a larger group.

On the other side of the spectrum, we find Chaudoin, Kucik and Pelc (2016), who ask whether winning disputes has a positive impact on trade. Specifically, the authors focus on import levels of the respondent country and run a quantitative analysis which controls for country-fixed and year-fixed differences. The expectation is, again, that trade policy adjustments following a DSB ruling will foster trade from the complainant to the respondent. The authors provide a negative answer: the study finds that trade does not increase following a dispute. Even allowing up to six years after the initiation of a dispute, the regression analysis does not show a significant correlation. On the contrary, in some cases, engagement in disputes has been associated with decreased import flows. Even though the degree of variation in import flows is not enough to postulate the existence of a causal link, changes in import flows are observable. The characteristics of this variation provide some insights into the factors that might play a role in it. For instance, it appears that issue area matters: disputes concerning anti-dumping measures are more likely to result in an approximate 18 per cent decrease in trade. On the contrary, disputes concerning safeguard measure lead to a positive and significant increase in imports post-dispute. What is also found to decrease trade flows are the characteristics of the respondent country. Indeed, some countries have been associated with a negative coefficient of responsiveness to disputes, which can be explained with country-specific factors. One example is the degree of democracy, which – contrary to expectations, is inversely proportional to the degree of responsiveness to disputes:
“If disputes are thought to mobilize broader, generally pro-free-trade constituencies, then we would have expected democratic countries, which are ostensibly more sensitive to those broader constituencies, to be more responsive to trade disputes. However, we have stressed that WTO-illegal entry barriers are a direct result of (at least some portion of) audiences demanding such violations. In this case, democratic audiences may punish their governments for backing down and exposing the domestic marketplace to costly foreign competition”.

(Chaudoin, Kucik and Pelc, 2016, p. 304)

To sum up, the evidence presented in this paper suggests that the effect of disputes on trade is null at best, or negative at worse. A possible explanation for this finding could lie in a lack of compliance with the WTO rulings. Could it be that trade does not increase because members fail to respect the outcomes of the litigation? Varella (2009) argues that states are likely to comply – at least on a legal dimension – with the WTO rulings because of the very nature of the organisation. Indeed, non-compliance would endanger the effectiveness of the institution, thus removing the benefits that membership can provide. After all, repeated interactions make non-compliance less likely (see Martin, 1992). Then, one must look at a different kind of compliance. A detailed analysis of the matter can be found in Elsig, Hoekman and Pauwelin (2017). They elaborate on the concept of compliance distinguishing between legal compliance and economic compliance. Legal compliance could be referred to as ‘formal’ compliance, meaning adherence to the rules and standards. Economic compliance, on the other hand, is based on hard data and trade flows and measures the effectiveness of the litigations on trade flows. The authors find that the legal provisions of disputes are not matched by an economic benefit: trade flows do not recover after a dispute. This might happen, they argue, because respondents, whilst formally complying with the rulings, impose non-tariff barriers to trade. This hypothesis is consistent with Bhagwati’s “Law of Constant Protection” (1988), according to which concessions that move towards open trade are always compensated by restrictions of another kind. This mechanism would result in a decreased effectiveness of the DSM.

Given this mixed evidence, many scholars have questioned the effectiveness of the DSM. It has to be remarked that the definition of effectiveness is not so linear in itself and comprises multiple dimensions. Young & Levy (1999) make a useful distinction between problem-solving, legal, economic, normative and political effectiveness. Problem-solving effectiveness lies in the ability to solve the problems the institution was created to address. Legal effectiveness manifests itself when the parties behave according to the legal agreements which underlie the institution. Economic effectiveness is measured based on the compliance with the budget sheet and with the application of cost-efficient solutions. Normative effectiveness has to do with the ability of an institution to achieve values, while political effectiveness deals with the ability to tackle the problems of poor management. Each category is distinct from the other, meaning that an institution can be politically effective, but not economically. Adopting this distinction, and in the light of the empirical findings, the DSM would not fulfil all of the effectiveness criteria. Building upon this work, Iida (2004) concludes that the WTO dispute settlement is not fully effective. Specifically, the system is lacking – she argues – in its most crucial dimensions, such as the creation of a level playing field amongst countries and, ultimately, in promoting the economic development of less powerful members, in extent, developing countries. Indeed, while developing countries’ measures are challenged in the
context of the Dispute Settlement, they lack the financial and legal resources to successfully carry out litigations. As a consequence, developing countries can merely play the part of “handicapped plaintiffs” (Iida, 2004). Capacity building should, therefore, be the fundamental and preliminary step to make the system both equitable and effective.

2.4 What is the nature of Latin American countries’ participation in the DSM?

The third issue that needs to be addressed before proceeding with the investigation is the way in which Latin American countries have made use of the Dispute Settlement System thus far. This knowledge will help to gain a better understanding of the dynamics observed in the region.

First, it is relevant to note that – apart from the WTO agreements - the countries in the region are engaged in multiple and diverse trade agreements (NAFTA and MERCOSUR, to name some) and each one has established its own system for dispute resolution. Therefore, at least theoretically, countries in the region can count on multiple venues to address trade conflicts. However, the evidence suggests a general preference for the DSM compared to other dispute settlement mechanisms, as noted by Morillo Remesnitzky (2017). This preference can be explained – she argues - through the features of the DSS which make it preferable to other trade resolution systems. One of these characteristics is the possibility of retaliation, which – even though its effective use may be limited – provides the benefit of nudging the parties into compliance. Although other Free Trade Agreements (FTAs) might allow the possibility of compensation, the DSM adds the dimension of a monitoring and enforcement body, which fosters its effectiveness. Therefore, the DSU creates a positive environment – at least, compared to other FTAs in place – in which LACs can defend their trade interests.

Looking further into the nature of participation to trade disputes under the WTO, some relevant trends can be observed. A study by Herreros & García-Millán (2015) investigates on the characteristics of Latin America’s participation to the WTO. The authors find that, not only Latin America makes use of the DSM more than it does with other dispute resolution systems, but it appears in disputes more than we would expect. Indeed, the region participated in disputes – either as a complainant, respondent or third party – “in a way that exceeds its relevance in the world trade”. However, the use of the DSM is uneven across the different countries in the region: the heaviest users are Argentina, Brazil, Mexico and Chile, which make up for the great majority of the past and current disputes involving Latin American countries (64% initiated as complainant and 68% as respondent, see Figure 1 and 2). The members whose measures are challenged the most are the EU and the United States (see Figure 3), consistent with the substantial trade flows between these areas and the countries in Latin America.

On the other hand, China does not appear in the role of the respondent as often as it would be reasonable to expect, based on the trade relationship between the two regions (only 7% of the disputes initiated by LAC were addressed against China). According to Herreros & García-Millán, this is due to strategic considerations. China’s economy is based on labour force, while Latin America’s on raw materials. The combination of these two factors fosters collaboration which needs to be preserved through solid relations between the two countries. The Chinese labour force is a crucial asset for Latin American producers; thus cooperation is preferred to litigation.
As far as the issue area is concerned, a significant number of disputes brought by Latin American Countries concern agricultural products. This is not surprising, given the importance of the agricultural sector for the economy of the region.

Despite the extensive use of the DSM by LACs, there are issues that still need to be addressed. Torres (2012) claims that the main difficulty faced by Latin American Countries is the lack of instruments to ensure compliance. Notwithstanding the existence of formal enforcement mechanism, the actual ability to impose compensation or to retaliate is directly linked to the legal capacity and the expertise in litigation. This is an issue faced by most developing countries, which hampers the access to and the successful resolution of disputes. Indeed, the problem touches LAC deeply, to the point that they make extensive use of the Advisory Centre on WTO Law (ACWL), an international organisation whose aim is to provide support and advice to developing countries participating in the WTO. Fifteen of the LAC make use of the ACWL, which confirms the need for support in all of the WTO processes, including litigation.
Figure 1. Disputes issued by LAC.

Figure 2. Disputes issued against LAC.

Figure 3. Number of disputes issued by LAC per respondent country.
2.5 Conclusions and expected findings

This chapter was meant to provide an overview of the state-of-the-art of the studies on the DSM and its effectiveness. Furthermore, it meant to explore what has been the behaviour of Latin American countries within the WTO with regards to trade disputes. As far as the first point is concerned, the first step was to investigate the norms and procedures in place for the resolution of disputes within the WTO – in extent, how does the DSM work so far. A brief explanation of the overall mechanism and the core concepts was provided. Then, the chapter moved towards an empirical ground, analysing the results of the existing studies concerning the relationship between engaging in disputes and trade flows. This second section meant to answer the second sub-question. The empirical findings are split. While Bechtel and Sattler (2015) find a rise in imports after litigation, Chaudoin, Kucik and Pelc (2016) do not find a positive correlation. In the final section, the literature review moved to the investigation of the nature of Latin American countries’ participation to the DSM, with the aim to answer the third sub-question. Based on findings and historical record, LAC’s participation is widely uneven across the different members. Bigger countries – and, therefore, those with the larger economies – participate more than smaller states. Additionally, those who initiate disputes tend to address a limited number of respondents, specifically those who are regarded as some of their main trading partners such as the US and the EC. The exception to this rule is represented by China, which has not often been challenged.

Given these premises, it is reasonable to hypothesise that, either way, the effect of disputes on trade is not going to be positive for the sample of Latin American countries – meaning that it will likely be neutral or negative. In the same way, retaliation will likely not have a positive effect on trade flows. Trade sanctions imposed by developing countries do not have the same power as those imposed by advanced economies; in other words, sanctions do not bite for the most powerful economies in the system. This is due to the fact that advanced economies are able to absorb the costs of sanctions more efficiently compared to smaller and less developed ones. This applies to developing countries in Latin America, as well (see Torres, 2012). Therefore, it is reasonable to postulate that - even if a dispute reaches the retaliation stage – this will not affect trade flows in a positive way.

To conclude, given the existing literature on the subject, it is possible to postulate the following expected finding:

*Winning disputes will have no positive effect on trade for the analysed countries.*
3. Methodology

3.1 Introduction

This chapter will provide an overview on the research method which has been chosen in order to carry out the research. I will discuss the main components of the research design and provide arguments supporting each of the choices. While being aware that no research design will achieve perfection, I will attempt to design a sensible framework to analyse the data and provide an answer to the research question.

To start, I will discuss the general research design, focusing on the method and the motivation behind the choice of a qualitative analysis. After that, I will outline the criteria that will be followed to perform case selection. I will then move to the section regarding operationalisation, in which I will define the relevant variables and how each of them will be measured. Adequate justification will be provided for each of those. Following that, I will discuss the issue of data collection, by defining the data sources I will employ to carry out the analysis. Finally, this chapter will conclude with a critical discussion on the research design, which will address the reliability, validity of the research method, as well as the limitations it implies.

3.2 Research design

The first choice which had to be taken with regards to research design was between a quantitative and a qualitative analysis. While both methods are based on inference, the path that needs to be followed in order to reach a conclusion differs between the two. The method that has been chosen to address the research question is a case study research. The reason behind this choice lies in the number of data available for this study. Given the nature of the research question, it is logical that the cases involved in the study will be the disputes in which Latin American Countries participated and won against developed countries. Additionally, further criteria have been established for the sake of scientific reliability. As a result, the number of cases which is coherent with the selected criteria ends up being limited in number. Thus, the data set does not allow to perform a large-N analysis (namely, a quantitative analysis) without incurring into a methodological error. Therefore, the most sensible option is to perform a small-N research, or qualitative analysis. Indeed, if there were more cases available, it would be interesting to perform a regression analysis, analysing the effect of winning trade disputes on the economic conditions of the involved countries. Such research design would gain in reliability and applicability compared to the qualitative one. However, as thereof, the research needs to adapt to the small population of available cases. A quantitative research design can unquestionably be considered in the future, when and if the sample will enlarge.

Going back to the core issue, the choice has fallen upon a multiple case study, according to the framework provided by Yin (2003). I will analyse a group of disputes issued by LAC and assess their effect on trade; then, I will compare the cases in order to understand similarities and differences, while attempting to provide explanations for those results. The final outcome of such analysis will be based on a collective interpretation of the cases and will constitute the answer to the main research question.
Once the qualitative method has been defined, the next issue to deal with is which kind of qualitative research design to adopt. According to the theoretical framework provided by Blatter and Haverland (2012), the possible options are covariational analysis (COV) and congruence analysis. I chose to structure the research as a covariational analysis based on the goal that this study aims to achieve. Rather than defining which theory best explains the observed phenomenon, my goal is to determine whether the existing rules and practices have so far been beneficial for countries in the Latin American region. Therefore, the choice has fallen onto the covariational analysis, which would be better suited to achieve this aim.

As for the specific type of covariational analysis, I opted for an intertemporal kind of research; which implies that I will analyse the relevant trade flows before and after the occurrence of the dispute, to investigate whether her change has occurred and – if so – which is the direction of it. I will perform this kind of analysis for each of the cases selected; this will allow me to deliver a comprehensive picture of the entire region with regards to the DSM and – ultimately - to answer the main research question.

3.3 Case selection

When designing a qualitative analysis, case selection might as well be one of the most crucial aspects (Blatter and Haverland, 2012). I will now elaborate on the criteria for case selection which have been outlined in chapter one, proving reasons for each choice. Given the research question, the first filter to be applied will be the geographical one; in extent, I will focus on dispute cases involving Latin American countries. Due to the available data, I will only consider sovereign states. Therefore, my initial sample will be composed of the twenty states belonging to the region. After that, a selection of relevant dispute cases will have to be made. I will select cases in which Latin American countries had an active role as a complainant; this way, I will be able to establish whether there is indeed a relationship between active participation in WTO disputes and trade. Additionally, I will only analyse disputes between one Latin American country and high-income country. This will be done to avoid confusion and contamination of results. Therefore, the conclusions of this analysis will only concern the relationship between countries in Latin America and the most developed economies within the WTO. Furthermore, I will need to select disputes which – in their outcome – have the potential to cause an effect in trade in the relevant sectors. In other words, I will only be dealing with disputes which resulted in the implementation of the Panel or Appellate Body rulings.

Given all of the above, the relevant cases will be selected according to the following criteria:
1. Disputes in which Latin American Countries are complainants;
2. Disputes issued by Latin American countries towards a high-income country;
3. Disputes which ended up with the complainant country being regarded as the winning party;
4. Disputes whose related measures have been implemented or for which retaliation has been granted and implemented.

The cases which respect each and all of these four criteria will qualify for this study. Additionally, I opted to exclude from the analysis:
a) Disputes whose measures have been implemented later than 2013. This criterion has been set to allow a reasonable timeframe for the implementation to produce an observable and measurable effect.

b) Disputes which terminated with a mutually agreed solution prior to any Panel or Appellate Body ruling. That is because the event of a mutual agreement is dependent upon the two parties finding a common solution outside of the dispute settlement mechanism, therefore, prior to the adoption of Panel or Appellate Body reports; considering such cases would be unfruitful for the evaluation of the effectiveness of the DSM. On the contrary, the disputes which ended with a mutually acceptable solution on implementation will be part of the study, as reaching this stage implies that the two parties went through the dispute settlement process and that a formal victory has been attributed to one of the members through the adoption of the report by the DSB. It needs to be clarified that this selection criterion is theoretically implied in the first one, as the disputes which terminated before the involvement of the Panel and Appellate Body did not end with a winning or losing party. Nonetheless, I deemed necessary to add this second criterion for the sake of clarity.

c) Disputes which have been issued by one of the selected countries in association with either a high-income country or a country which does not belong to the Latin American region. That has been chosen to avoid inconsistencies with criteria A and B.

d) Disputes whose implementation is antecedent to 2000. This criterion had to be established due to the lack of data on trade that can be found on the period before 2000. Indeed, the information on the last century is scarce and often not accessible. Therefore, I will be obliged to further constrain the timeframe, by excluding disputes which concluded in 1999 or before that.

These additional criteria will allow me to design the research in a more solid way and to increase the reliability of the study. The result of the selection process is the list of disputes summarised in Table 1. Those follow each and every one of the criteria mentioned earlier and will, therefore, be the object of this study.

As a last note, dispute DS222 (Canada — Export Credits and Loan Guarantees for Regional Aircraft), despite adhering to all of the aforementioned criteria, has been excluded from the analysis on the basis that it concerned regional aircraft, without any further specification that would have allowed to categorise the good under a precise HS code.
Table 1. List of the selected WTO disputes.

<table>
<thead>
<tr>
<th>Code</th>
<th>Title</th>
<th>Year</th>
<th>Complainant</th>
<th>Respondent</th>
<th>Third parties</th>
<th>Object</th>
<th>Outcome</th>
</tr>
</thead>
<tbody>
<tr>
<td>DS386</td>
<td>European Communities — Trade Description of Sardines</td>
<td>2003</td>
<td>Peru</td>
<td>EC</td>
<td>ARG, AUS, BRA, CAN, CHN, COL, EC, GTM, IND, JPN, KOR, NZL, PER, ROC</td>
<td>Sardines</td>
<td>Mutually acceptable solution on implementation notified</td>
</tr>
<tr>
<td>DS219</td>
<td>European Communities — Anti-Dumping Duties on Malleable Cast Iron Tube or Pipe Fittings from Brazil</td>
<td>2004</td>
<td>Brazil</td>
<td>EC</td>
<td>CHL, JPN, MEX, USA</td>
<td>Tube or Pipe Fittings</td>
<td>Implementation notified by respondent</td>
</tr>
<tr>
<td>DS266</td>
<td>European Communities — Export Subsidies on Sugar</td>
<td>2005</td>
<td>Brazil</td>
<td>EC</td>
<td>AUS, BRB, BLZ, CAN, CHN, COL, CUB, FIJ, GUY, IND, JAM, KEN, MDG, MWI, MUS, NZL, PRY, KNA, SWZ, TZA, THA, TTO, USA, CIV</td>
<td>Export Subsidies on Sugar</td>
<td>Report(s) adopted, with recommendation to bring measure(s) into conformity</td>
</tr>
<tr>
<td>DS269</td>
<td>European Communities — Customs Classification of Frozen Boneless Chicken Cuts</td>
<td>2006</td>
<td>Brazil</td>
<td>EC</td>
<td>CHN, THA, USA</td>
<td>Chicken Cuts</td>
<td>Implementation notified by respondent</td>
</tr>
<tr>
<td>DS335</td>
<td>United States — Anti-Dumping Measure on Shrimp from Ecuador</td>
<td>2007</td>
<td>Ecuador</td>
<td>US</td>
<td>BRA, CHL, CHN, EC, IND, JPN, KOR, MEX, THA</td>
<td>Shrimps</td>
<td>Implementation notified by respondent</td>
</tr>
</tbody>
</table>

*Note: Information taken from the WTO website.*
3.4 Operationalisation

The independent variable of my research will be a formal victory in a dispute. Formal victory will be defined on the basis of the Panel or Appellate Body ruling which settled the dispute. Specifically, in the event of a dispute, the complainant country will be considered the winning party (officially defined by the WTO as “prevailing Member”) if the Panel or Appellate Body ruling states that the respondent country should bring measures back to conformity. As highlighted above, in case of non-compliance with the rulings, the DSM allows for retaliation, in the form of suspension of obligations towards the violating country. The country which is allowed to retaliate can only do so if its complaints have been recognised as legitimate by the DSB; therefore, retaliation implies a recognition of formal victory in the DSM. For this reason, disputes which ended up with the complainant party suspending obligations towards the respondent will be part of the analysis, as well. For the sake of completeness, I will hereby restate that the disputes whose related rulings have not been implemented will not be part of this study. As a result, the selected cases will terminate either with "implementation notified by the respondent" or "mutually acceptable solution on implementation”.

The dependent variable will be constituted by the trade flows which are relevant to the dispute. As each dispute involves different goods, it is not possible – nor sensible - to select one single good or service to be analysed. Therefore, the relevant sectors will be defined for each of the considered disputes. What needs to be defined here is the concept of relevance. The goods that will be considered relevant for the dispute are:

a. The goods that have been the direct object of the dispute;

b. The goods upon which the complainant choose to retaliate, if applicable.

With regards to the concept of trade flows, those will be analysed by looking at the relevant good(s) imported by the respondent from the complainant country. Choosing the imports on the respondent side rather than the exports from the complainant’s side has been due to the broader availability of data.

Finally, the control variables must be defined. I chose to control for my data in multiple ways. First, I will make an intertemporal comparison; meaning that I will be analysing trade flows before and after the dispute. The imports before the dispute will serve as a benchmark to evaluate whether there has indeed been any change following the resolution of the litigation.

However, a before and after comparison alone is not enough; there might be other factors affecting trade flows of the relevant goods. In order to be able to establish a reasonable causal mechanism, I will need to make sure that the observed changes have not been caused by any other factor than the removal of barriers following a dispute. Therefore, I deem necessary to control for other variables. Specifically, for each of the cases analysed, I will investigate the relevant issues concerning the good which is the object of the dispute (or of the retaliation), with the aim of identifying any meaningful change which might have significantly affected the imports of the analysed good. Such changes include price shocks, overproduction or shortage, new regulations affecting imports or exports. The idea behind controlling for these variables is to avoid any interference with factors that are unrelated to the dispute itself. This kind of control will increase the degree of validity of this study. Additionally, I will control for macro-economic factors affecting trade. This is done in two ways. First, I will calculate the share
of imports of the relevant good over the total imports of the respondent country. This will be done to take into account changes in the overall demand of the respondent country. Indeed, national macroeconomic shocks might increase or decrease the total demand in the importing country, thus affecting imports either positively or negatively. Given the relevant good \( x \) (meaning, the good involved in the dispute or in retaliation), \( \text{Imp} \) being imports and \( r \) being the respondent country, the ratio will be calculated as follows:

\[
\frac{\text{Imp}(x)_r}{\text{Imp}(\text{tot})_r}
\]

The second indicator that will be employed is meant to monitor changes in the demand for a particular good. This is done by focusing on the demand for a specific good in the respondent country and calculating the ratio between the imports from the complainant country and the total imports of that good. Such an indicator will control for changes in the specific demand for a product, which might have affected trade flows upwards or downwards. Given the relevant good \( x \), \( \text{Imp} \) being imports, \( r \) being the respondent country and \( c \) being the complainant, the ratio will be calculated as follows:

\[
\frac{\text{Imp}(x)_r \text{from } c}{\text{Imp}(x)_r}
\]

As stated before, I will also be investigating price changes and supply shocks. Changes in price will likely affect the demand for a specific good because of basic economic principles. An increase in price will decrease the demand whilst a reduction in price will easily foster the sales for that good. Therefore, it can be expected that price changes constitute a relevant factor affecting the trend of trade flows. An increase or decrease in trade could indeed be the result of a price shock. Additionally, supply shocks will be investigated, in order to verify whether production has been reduced or increased with regards to the relevant years. The motive behind controlling for supply shocks lies in economics principles, similarly to the previous factor. A limited supply caused by a production shortage will necessarily decrease the value of imports of the affected good. On the contrary, an increased supply might positively affect imports. For these reasons, I deem necessary to consider these factor – when applicable and sensible – in order to gain a better understanding of each issue.

### 3.5 Data collection

For the purposes of this research, multiple data sources will be employed. In order to operationalise the independent variable, I will be consulting the WTO website, which contains a directory of all of the disputes occurred until the present day. The result of this analysis has been presented extensively in the section dedicated to case selection.

As far as the dependent variable is concerned, I will draw the data on imports mainly from the UN Comtrade database. Data on trade flows will be expressed in current US dollars. Whenever these data are incomplete, I will integrate it with information drawn from the national bureau of statistics of the respondent countries or from sector-specific databases. I will take the value of imports classified by country and by sector. It has to be noted that not every database employs the same classification method. Indeed, traded goods can be classified according to different methods, including, but not limited to, the Harmonised Code (HC) or the Standard
International Trade Classification (SITC). Needless to say, this can be a source of inaccuracy, as these indexes do not fully correspond. For this reason, I will make sure to highlight any potential classification error which might derive from the combination of information drawn from different databases.

Classification carries the additional problem of not allowing maximum precision. Indeed, single goods are grouped into broader categories; therefore, the use of the HC – or, of the SITC, for that matter - does not allow to isolate the imports of a specific good, instead, it can only show the value of imports of the entire category to which the good belongs. In the absence of a more precise classification, I will employ those data, while being aware that the results will need to be interpreted with a certain degree of approximation.

Finally, to control for other factors that might be interfering with the imports, I will analyse government reports about the sectors involved in each dispute, in order to gather whether there has been any significant change which might have affected imports other than those caused by the dispute itself. Additionally, working papers and academic studies on the same issues will be considered. As far as the other control variables are concerned, the aforementioned indicators will be calculated by using data on imports drawn from the national statistical databases of the involved countries. These calculations will be done to the extent practicable, as far as the availability of data allows. Changes in prices – when a will be monitored through the IMF Primary Commodity Price System. The last issue of mention is the outbreak of the global economic crisis of 2007-2008. It is likely that some evidence of trade deflation will be found with regards to the years 2007-2008 and the following. Therefore, I will consider the economic crisis as an additional influencing factor.

The variables, their operationalisation and the data sources are summarised in Table 2.

<table>
<thead>
<tr>
<th>Variable</th>
<th>Definition</th>
<th>Operationalisation</th>
<th>Data source</th>
</tr>
</thead>
<tbody>
<tr>
<td>Independent variable</td>
<td>Formal victory in a dispute (or being a prevailing Member)</td>
<td>Panel or Appellate Body ruling to bring measure into conformity for the respondent Member; “Implementation notified by the respondent” or “Mutually acceptable solution on implementation notified”</td>
<td>WTO website</td>
</tr>
<tr>
<td>Dependent variable</td>
<td>Relevant trade flows</td>
<td><strong>Relevant</strong>: goods that are either object of the dispute or of retaliation.</td>
<td>UN Comtrade</td>
</tr>
<tr>
<td></td>
<td></td>
<td><strong>Trade flows</strong>: imports by the respondent from the complainant.</td>
<td></td>
</tr>
</tbody>
</table>
| Influencing factor        | Changes in world trade                                                    | \[
\frac{Imp(x)_r}{Imp(tot)_r}\]                                                   | UN Comtrade         |
| Influencing factor        | Changes in demand for the relevant good                                    | \[
\frac{Imp(x)_r}{Imp(x)_r}\]                                                   | UN Comtrade         |
<table>
<thead>
<tr>
<th>Influencing factor</th>
<th>Price changes</th>
<th>Yearly price changes above 10%</th>
<th>IMF Primary Commodity Price System; UN Comtrade</th>
</tr>
</thead>
<tbody>
<tr>
<td>Influencing factor</td>
<td>Supply shocks</td>
<td>Underproduction or overproduction within the relevant timeframe</td>
<td>Sector-specific reports</td>
</tr>
</tbody>
</table>

3.6 Reliability, validity and limitations

“Case study research is more than simply conducting research on a single individual or situation. This approach […] enables the researcher to answer “how” and “why” type questions, while taking into consideration how a phenomenon is influenced by the context within which it is situated”

(Baxter, 2012)

When elaborating a research design, the writer should be aware of the drawbacks associated with the chosen method. I will now critically discuss the choices made with regards to research design in terms of reliability, validity and overall limitations.

We can define validity – or, more specifically, internal validity - as the confidence about the existence of the causal mechanism which is the object of the study (Kellstedt and Whitten, 2018, p. 89). Case study design is generally associated with a higher degree of validity when compared to large-N research (Blatter and Haverland, 2012, p. 65). This is due to the fact that a case-study analysis allows to conduct a more detailed investigation, given the limited number of cases. The researcher is able to control for all of the relevant factors more precisely, thus increasing the confidence about the existence (or, lack thereof) of a causal mechanism between the dependent and the independent variable. This is the case of this research. Having only a few disputes to analyse makes it possible to investigate all of the factors that may come into play when investigating the effect of each WTO ruling. Additionally, small-N research allows to design indicators which are more fitting with the cases that constitute the population of analysis. Again, the focus which characterises case-study design is crucial to achieve a higher degree of conceptual validity.

Another issue to be addressed is external validity, meaning the degree to which the conclusions presented in this study can be generalised to other cases. Yin (2013) argues that small-N research can only provide limited external validity. It is true that the conclusion reached in a case study will be intrinsically linked to the characteristics of the cases themselves, thus impeding broad generalisation. On the other hand, the issues addressed with regards to countries in Latin America – the population of this study - can apply to other countries, as well. Of course, the conclusions of this research will be tailored to what is found in the area which is the object to the analysis, but - I argue - similar enough conditions can be found in other regions of the world. Therefore, whilst
acknowledging the limitations of case study research design, this study can have some degree of applicability to countries which face issues similar to the ones addressed here.

On the other hand, case study design may lack in reliability. As argued by Blatter and Haverland (2012), the choice of the indicators is highly dependent on the researcher's subjectivity, thus decreasing the degree of reliability in comparison to a quantitative kind of research. An additional hurdle for case-study research is that, notwithstanding being an effective tool to establish whether the independent variable actually has an effect on the dependent variable, it does not allow the researcher to quantify such influence - if it does exist. Furthermore, measurement errors are likely to have a bigger effect in small-N research. This is because a large-N research, measurement errors – if they do happen - tend to compensate themselves, summing up to a negligible effect. It has to be remarked, though, that this study will make use of data drawn from statistical databases, which ensures that the figures reported undergo careful evaluation before being published. As a matter of fact, those databases may as well be the most reliable existing source with regards to trade information. Plus, these datasets are regularly updated, which further contributes to their reliability.

It needs to be remarked, though, that when consulting national statistical databases one may find that imports by country A from country B do not always correspond to exports by country B to country A. This is likely due to the fact that each country uses its own trade data to update the databases, which might slightly differ because of different methods employed for data collection; therefore, some degree of inconsistency between the importer and the exporter country is to be expected. Still, the difference between the two is in most cases negligible, therefore it will not be a matter for concern for the scope of this paper.

The last relevant limitation concerns the availability of data. With particular regard to the oldest disputes, specific data on prices might not be available. Additionally, some limitations are imposed by the different methods used to classify import and export data. While most databases make use of the UCC, some of them do not, thus affecting the possibility of retrieving precise data on a particular good. I will attempt to navigate through these challenges by making coherent approximations whenever possible and by abstaining from them whenever reasonable.
4. Data analysis

4.1 Introduction

In this chapter, I will analyse each of the cases selected for the purpose of this study, employing the method discussed in the previous sections. The data analysis will address the cases one by one and assess the effect of the dispute on the relevant trade flows for each of them.

Each section will begin with an overview on the main events of the dispute, which serves the purpose of introducing the actors and the interests at stake. Then, I will present the data on the trend of the relevant trade flows in the relevant timeframe - both before and after the dispute resolution. In addition to that, the investigation will focus on the control variables and the other affecting factors, in order to find out whether shocks spearing from the data analysis can be considered as an effect of the dispute or if it is more reasonable to postulate another causal mechanism. The control mechanism will be performed even in the case that no apparent correlation is found between the dispute and the trade flows. This will be done to evaluate the possibility that the dispute did affect trade flows, but the effect has been nullified by other factors. Finally, conclusions will be drawn for each of the cases. In every section, the relevant data will be presented visually, in the most intuitive manner. This may create inconsistencies amongst the different sections but has the aim to achieve a higher degree of clarity. Nonetheless, to avoid confusion in the reader, the different findings will be summarised in a table, which may be found in paragraph 4.8. The results will be gathered into one single picture and make up a general understanding of the relationship between the dependent and the independent variable for the entire region.

4.2 Peru vs European Communities — Sardines

Peru requested consultations with the EC in 2001 with regards to the trade classification of sardines. The challenged measure had been implemented by the EU in 1989, through Council Regulation (EEC) No. 2136/89. According to such regulation, only fish belonging to the species *Sardina pilchardus* Walbaum could be labelled as sardine. Peruvian sardines belonged to a different species (*Sardinops sagax* sagax) and, therefore, had to be classified – and marketed – under the different name of “pilchards” or “sprats”. EU’s response was that this measure had been adopted with the aim of protecting consumers, while, according to Peru, this measure was hampering the exports of Peruvian sardines within the EU (Davis, 2006).

Peru’s complaint was supported by other LAC countries together with the USA and Canada in the role of third parties. The first Panel report – issued in 2002 - found that the EC was indeed responsible for the violation of the WTO agreements, specifically, of Article 2.4 of the Technical Barriers to Trade (TBT) Agreement. The legal basis for Peru’s complaint was the claim that the technical regulations and standards imposed by the EC were
not “effective or appropriate means for the fulfilment of the legitimate objectives pursued” (TBT Agreement, Article 2.4) and should, therefore, have been removed.

The EC chose to contest these findings through the request of an appellate review. The claim, in this case, was that Peru had failed to provide enough proof of the challenged measures being ineffective or inappropriate and that the Panel’s assessment of the case had not been objective. The Appellate Body substantially upheld the Panel’s findings, thus confirming that the EC had indeed violated the agreements. Therefore, the EC was compelled to bring the challenged measures back to conformity within a reasonable amount of time. The parties notified to the DSB that they had reached a mutually agreed solution on the implementation in 2003, which resulted in the Commission Regulation No. 1181/2003. The latter amended Council regulation No. 2136/89, allowing *Sardinops sagax sagax* to be labelled and marketed as sardines.

Figure 4 details the trend of sardines exports from Peru into the EU in the timeframe which is relevant to this case. Interestingly enough, there seems to have been a decrease in sardines trade following the dispute. The decrease is consistent, and it concerns the years which go from 2003 to 2005. After reaching its lowest point, the flows start to normalise again, to reach much higher levels in 2008, which may indeed signal that the dispute did have a positive effect on the longer term – only. The immediate effect, though, is a sudden decrease. These data would lead the reader to think that the adverse effect observed after 2003 can be directly linked to the EC regulation. However, there is a more plausible explanation. The fall registered from 2003 onwards can be linked to a shortage in the harvest of sardines. Indeed, Cárdenas-Quintana et al. (2015) claim that the high pressure on fishing has resulted in scarce catch levels around the early 2000s. the lower trade flows, then, are the result of scarcity in supply. The effects of the dispute – if any – are offset by the adverse conditions of the fishing industry.

*Figure 4. EU imports of sardines from Peru (2000 – 2008).*

*Note:* HS code: 160413 (Fish preparations; sardines, sardinella and brisling or sprats, prepared or preserved, whole or in pieces - but not minced) and 160420 (Fish preparations; fish minced or in forms n.e.c. in heading no. 1604, prepared or preserved ); cumulated.

Values in current USD.
The second element to be factored in is the level of imports of sardines in the relevant years. These data is useful to understand whether the variations in imports of Peruvian sardines can be attributed to a general decrease in the EU imports of sardines. In order to make the investigation more telling, the trade balance for sardines has been considered. These data are portrayed in table 3. What results from this observation is that imports of sardines have increased in value over the years and they have been significantly higher than the export for the entire period. As a result, the EU has been in a constant trade deficit with regards to the years which are relevant to this case. We can, therefore, exclude the possibility of a lower demand for sardines in the EU. From this data, it can be concluded that the decrease in imports from Peru is case-specific and is not related to a decrease in the internal demand in the EU. On the contrary, this decrease can be attributed to a reduction in the production of sardines in Peru.

Table 3. EU trade balance for sardines (millions).

<table>
<thead>
<tr>
<th>Period</th>
<th>Import</th>
<th>Export</th>
<th>Trade balance</th>
</tr>
</thead>
<tbody>
<tr>
<td>2000</td>
<td>$251.78</td>
<td>$75.81</td>
<td>-$175.98</td>
</tr>
<tr>
<td>2001</td>
<td>$249.06</td>
<td>$141.39</td>
<td>-$107.66</td>
</tr>
<tr>
<td>2002</td>
<td>$241.56</td>
<td>$148.19</td>
<td>-$93.36</td>
</tr>
<tr>
<td>2003</td>
<td>$285.78</td>
<td>$159.77</td>
<td>-$126.02</td>
</tr>
<tr>
<td>2004</td>
<td>$292.52</td>
<td>$140.31</td>
<td>-$152.21</td>
</tr>
<tr>
<td>2005</td>
<td>$335.29</td>
<td>$164.56</td>
<td>-$170.74</td>
</tr>
<tr>
<td>2006</td>
<td>$378.32</td>
<td>$177.71</td>
<td>-$200.62</td>
</tr>
<tr>
<td>2007</td>
<td>$449.05</td>
<td>$177.95</td>
<td>-$271.09</td>
</tr>
<tr>
<td>2008</td>
<td>$469.33</td>
<td>$218.68</td>
<td>-$250.65</td>
</tr>
</tbody>
</table>

Note: Values in (millions of) current USD.

Source: UN Comtrade.

Additionally, it is also worth considering that the level of sardine import from Peru in the EU is relatively low. The share did not achieve to go over the 2% threshold in the timeframe considered. According to the European Market Observatory for Fisheries and Aquaculture Products (EUMOFA), the great majority of the extra-EU sardines supply is provided by Morocco. The Peru-EU sardines market axis lacks relevancy when compared to the other suppliers.

The investigation will now move to the control variables. The first one to be analysed is the share of imports of sardines over the total import in the EU. As detailed in figure 5, the value of this indicator has been slowly but steadily decreasing over the years. What’s more, in the years immediately following the dispute, we can observe a sharper decrease. This variation should be taken with the due caution. Indeed, this trend could be the result of a decrease in the numerator (the value of sardines imported into the EU) or by an increase in the denominator. If both terms increase, but the denominator increases at a higher rate than the numerator, the overall
result will be decreasing over time. A glance at the data on imports can help to gain a better understanding of the issue.

**Figure 5.** Indicators on the demand for sardines within the EU, in percent

![Graph showing indicators on the demand for sardines within the EU.](image)

*Source: UN Comtrade.*

The trend of the second indicator – the share of sardines imported in the EU from Peru over the total sardines imports in the EU – varies in the same way as the imports of sardines from Peru, meaning that a great part of the variation has to be attributed to changes in the numerator. The production shortage in Peru has lowered the levels of imports in the EU more than the dispute has increased them, consistently with the previous finding. Again, it has to be noted that the product at stake is highly dependent on environmental conditions of the waters, therefore hydro-geological changes will affect the sector.

The combination of these data allows to draw two conclusions. First, the resolution of the dispute is not related to an increase in the value of import of sardines from Peru within the EU in the short term. On the contrary, in the years following the dispute we notice a decrease in the value of imports of Peruvian sardines within the EU. Such decrease is not due to a reduction in the EU demand for sardines. Instead, it can be attributed to a great extent on a production shortage on behalf of Peru. The impact of the dispute on the short term – if any – is offset by the adverse environmental conditions which are specific to the market. A positive effect can only be observed with regards to the later years.

As a last note with regards to this case, it is worth mentioning that, while the ruling might not have been fully effective on trade in the short term, it has had positive implications of different nature. Some scholars point out the relevance of this dispute for international trade and for the role of developing countries within the WTO:

“The implications of the case are much broader than just about sardines or even food labelling. Many developing countries have seen the use of the dispute system to help a small country get a fair hearing and reach a reasonable settlement. With the help of discounted legal advice, and contributions from UK consumer groups..."
and third party opinions, Peru was able to win a major case and bring about compliance by the EC.” (Davis, 2006)

Shaffer and Mosoti (2002) highlight the importance of this case as well, by adding that this was the first time the Panel found a member to be violating the WTO Agreement on Technical Barriers to Trade.

4.3 Brazil vs European Communities — Iron Tube or Pipe Fittings

In 2002 Brazil filed a complaint against the EC regarding anti-dumping duties applied by the EU on tube or pipe fittings. The measure – Brazil claimed – had not been properly applied and resulted in damage to the Brazilian trade flows. Specifically, the EU was found to have violated the WTO agreements by engaging in the practice of ‘zeroing’. When prices for goods fall too low, any WTO member can impose anti-dumping duties, through which it establishes minimum price levels for those goods. This is done to preserve national prices from getting too low and, ultimately, to avoid a race to the bottom. This norm can also be used when negative dumping margins are applied by the exporter country. In this case, the EU was determining anti-dumping margins by treating transactions with negative dumping margins as having margins equal to zero. As a result, the anti-dumping tariffs had been applied unfairly, causing economic losses to the exporter country – in this case, Brazil.

Brazil chose to appeal on the basis that it had rejected some of the claims brought against the EC. The appellate review process ended up worsening the overall ruling for the EU. The Appellate Body upheld most of the Panel’s findings, and, additionally, modified the Panel’s report by finding that the EC had acted inconsistently with one more agreement, by not disclosing relevant information for the investigation.

The EC notified the implementation of the AB report in 2004. Some disagreement occurred on this point: Brazil claimed that the EC had not completely fulfilled its obligations. Despite ending the practice of ‘zeroing’, the EC had not fully implemented the regulation concerning anti-dumping rules. The EC contested this claim, by arguing that it had implemented the report in full. There is no further official record on this matter, suggesting that the EU did not express itself further on the matter, nor was it compelled to do so.

Figure 6 details the trend of the imports of cast iron tube and pipe fittings from Brazil by the EU. The effect of the dispute in this case seems to be non-existent. The year of the implementation does not detach itself from the years preceding or following it, but instead, it situates itself within a generally positive trend. It can be said that the dispute did not produce any observable increase or decrease in trade between the EU and Brazil. The only notable datum is the one from 2007. Indeed, there seems to be a slight decrease in the trade of tube or pipe fittings from Brazil to the EU. Such a reduction is extended to the subsequent years. The analysed period in this case has been extended further, in order to investigate the effect of the 2008 economic crisis on the sector. The same figure shows that the value of imports decreased significantly after 2008. In addition, there seems to be a fluctuating trend in the last years of the analysis. This evidence alone does not allow to conclude that the decrease was due to the economic crisis. Indeed - if that was the case – the aftermath of the economic turmoil would only
concern a limited period of time; the level of imports would have gone back to the original levels within a few years. The fact that the levels remain low suggests that the crisis was not the main determinant of such decrease.

Figure 6. EU imports of tube or pipe fittings from Brazil (2000 – 2014).

The evidence might suggest a production shortage. In order to check for this statement, I employed the database from the world steel association on the production of hot-rolled steel products in Brazil. However, no evidence of a reduced volume of iron production is found with regards to the relevant years. Figure 7 shows a slight decrease only after 2008. Thus, it can be excluded that the fall in Brazil export of 2007 is due to a production shortage. The following step was to look for changes in prices, with the caution of confronting the data regarding the EU and those regarding the trade with the rest of the world. The data on prices per Kg is represented in figure 8. Prices from Brazil increase at a higher rate than prices for the same product in the rest of the world. This variance can explain the lower production volumes. There could also be a mechanism of reverse causality in place, meaning that the reduction in volume could be the cause of the price increase. What matters for the scope of this paper is that as far as the trade relationship between Brazil and the EU are concerned, there is no evidence that the dispute caused any significant change with regards to the trade flows of tube and pipe fittings. Price changes cannot be taken as an indication of the dispute’s effect on trade.

Note: HS code: 7307 (Tube or pipe fittings (e.g. couplings, elbows, sleeves), of iron or steel). Values in current USD. Source: UN Comtrade.
Figure 7. Production of hot rolled steel products in Brazil (2000 – 2008), thousand tonnes.


Figure 8. Price per Kg of tube or pipe fittings from Brazil.

Note: Prices in current USD.

Source: UN Comtrade.
As shown in figure 9, the demand for tube or pipe fittings from Brazil has been fluctuating for the entire period. Apart from the lowest record of 2001, the rest of the values do not suggest a significant trend resulting from the dispute. The value of total imports of tube or pipe fittings in the EU maintains itself on a relatively constant value, even when compared to the total imports of the 28 member states.

Figure 9. Indicators on the demand for tube or pipe fittings in the EU.

To summarize, the dispute does not seem to have affected the tube or pipe fittings market, even when taking into consideration the control variables.

4.4 Brazil vs European Communities — Sugar

The complaint brought by Brazil against the European Communities in 2002 addressed the European policy concerning the sugar market. The EU at the time was the second largest producer of sugar (EC, 2019). Given its importance for the national market and international trade, sugar growers were subsidised by the EU and the sector was highly regulated. The EU sugar regime had been established in 1968 and remained relatively unchanged until 2006. The regulation aimed to achieve self-sufficiency in sugar production, and it included a number of measures to foster internal production and limit imports from third countries. Such measures, broadly speaking, consisted in minimum production quotas, minimum guaranteed prices, import restrictions and exports subsidies.
One of the most crucial points for this case was the rule dealing with excess production of sugar. Sugar which exceeded the yearly production quota would be labelled as C sugar. C sugar could not be sold in the internal market, and therefore, had to be exported (source). Due to the subsidies they received, sugar growers were able to sell C sugar for a price below the cost of production. The mechanism in place was – effectively – dumping. Indeed, the low price of C sugar hampered sugar producers from third countries, including, but not limited to, developing countries such as Brazil. The legal foundation of Brazil’s complaint lied in the less favourable treatment conceded to imported sugar vis-à-vis sugar produced within the EU.

The panel report - circulated in 2004 – claimed that the EC had not fulfilled its obligations under the Agreement of Agriculture. Following this ruling, the EU choose to appeal the Panel’s report. The appeal concluded in 2005, with no substantial modifications to the original Panel’s findings. The implementation of the AB report was notified in 2006.

The relevance of this dispute lies in multiple factors. First, sugar is a highly strategic sector for both the EU and Brazil, which makes this dispute particularly sensitive for both the complainant and the respondent. Second, the EU’s agricultural subsidies had been strongly criticised for the damage caused to developing countries. According to Oxfam’s report, sugar subsidies cause a lowering of the price of sugar of 23% and – therefore – deprives developing countries of millions of dollars of revenues (Miller & Samor, 2004). In the case of Brazil, the damage would translate into 494 million dollars of foreign exchange losses (Oxfam, 2004). The 2005 ruling highlighted, once again, the necessity for the EU to reshape its subsidy system with an eye for developing economies. Indeed, the adverse ruling was the determining factor for a reform of the European sugar regime. In 2006 the EU reformed its regulation by reshaping the quota system. The ultimate goals of the sugar reform were a quota reduction of 28% in five years and the consolidation of the sugar industry. The 60-year-old sugar subsidy program underwent a major change with the 2006 reform. This change was the stepping-stone for the complete elimination of the sugar subsidies, which occurred in October 2017.

The preliminary analysis of the data concerning imports of sugar in the EU provides a first hint on the status of trade. The values show a positive trend with regards to both the sugar imported from Brazil and the overall sugar imported from the world. This allows to conclude that the EU has not diminished its consumption nor imports of sugar, overall. The relevant data are portrayed in table 4.
Table 4. EU imports of sugar and total imports.

<table>
<thead>
<tr>
<th>Period</th>
<th>EU imports of sugar from Brazil</th>
<th>EU imports of sugar from the World</th>
<th>Brazil's exports of sugar to the world</th>
<th>EU total imports</th>
</tr>
</thead>
<tbody>
<tr>
<td>2001</td>
<td>$163.96</td>
<td>$1 491.94</td>
<td>$2 401.08</td>
<td>$876 782.38</td>
</tr>
<tr>
<td>2002</td>
<td>$122.09</td>
<td>$1 624.33</td>
<td>$2 211.65</td>
<td>$917 510.61</td>
</tr>
<tr>
<td>2003</td>
<td>$162.79</td>
<td>$1 783.66</td>
<td>$2 291.54</td>
<td>$1 082 281.69</td>
</tr>
<tr>
<td>2004</td>
<td>$201.97</td>
<td>$2 195.78</td>
<td>$2 821.83</td>
<td>$1 301 923.94</td>
</tr>
<tr>
<td>2005</td>
<td>$261.46</td>
<td>$2 242.93</td>
<td>$4 102.46</td>
<td>$1 515 272.77</td>
</tr>
<tr>
<td>2006</td>
<td>$367.26</td>
<td>$2 424.14</td>
<td>$6 347.52</td>
<td>$1 786 694.98</td>
</tr>
<tr>
<td>2007</td>
<td>$348.69</td>
<td>$2 628.28</td>
<td>$5 284.29</td>
<td>$2 020 311.76</td>
</tr>
<tr>
<td>2008</td>
<td>$437.18</td>
<td>$3 050.03</td>
<td>$5 695.71</td>
<td>$2 386 983.87</td>
</tr>
<tr>
<td>2009</td>
<td>$351.39</td>
<td>$2 528.13</td>
<td>$8 568.26</td>
<td>$1 757 279.44</td>
</tr>
<tr>
<td>2010</td>
<td>$605.78</td>
<td>$2 489.09</td>
<td>$12 954.73</td>
<td>$2 034 310.56</td>
</tr>
</tbody>
</table>

Source: UN Comtrade. Values in (millions of) current USD.

Given the relevance of the dispute with regards to international trade it should be expected the dispute to have impacted the global sugar trade to a great extent. However, the data show that this is not the case. Figure 10 represents the trend of sugar imported by the EU from Brazil. In the years immediately before the resolution of the dispute, we can notice an increasing trend in the value of the sugar imported into the EU. Such trend continues in the years after the dispute, even though in a less linear way. Nonetheless, it is reasonable to claim that the increase would have happened even in the absence of the positive WTO ruling. These data show that the EU – at least with regards to the years considered – was far from achieving sufficiency in sugar production.
The following step of the analysis is to check the control variables, which are operationalised in two indicators: the share of sugar over the total imports of the EU and the share of Brazilian sugar imports in the EU over the total sugar import in the EU. The first indicator shows a decreasing trend. This evidence, at a first glance, might suggest a steady decrease in demand for foreign sugar within the EU. However, this assumption is not correct. Indeed—similarly to what has been argued in paragraph 4.2—the decreasing trend is entirely attributable to a difference in the growth rate of the two factors. A simple look at the value of total imports in the EU (portrayed in table 4) confirms this statement. The conclusion that can be drawn, then, is that the demand for sugar within the EU did not decrease over time in the relevant period, but instead, the growth rate of the total imports of the EU is bigger than the growth rate of the sugar imports. Nonetheless, the spending on foreign sugar has continued to increase in the timeframe considered, suggesting an increase in demand for foreign sugar.

The second indicator shows that Brazil has been increasing its share in the European sugar market for all of the years considered. Additionally, the year 2006 corresponds to a sharper increase, suggesting that the change in the regulatory framework might indeed have facilitated trade between the two partners. Nonetheless, this evidence does not allow to conclude that the general positive effect is entirely attributable to the changes occurred in the EU sugar regime. Similarly to what has been found with regards to simple trade flows, it is evident that this increasing trend is part of a dynamic which started before the dispute, while the old sugar regime was still in place. Again, the dispute did not reverse the existing trend of trade.
Figure 11. Indicators on the demand for sugar in the EU (2001 – 2010).

The dispute, however, did produce some change. Another factor which is relevant to mention for this case is the average price of sugar worldwide, which reflects the impact of the sugar policy reform. For this purpose, the IMF Primary Commodity Price System was chosen. The Price index related to sugar is represented in figure 12. According to the sugar index, the sugar reform was effective in lowering the price of sugar, at least in the short term. Less than five years after, the effect is annulled, with prices going back to an increasing trend. A study by the DG of Agriculture and Rural Development of the European Commission showed that this decrease in price reflected neither on the producers nor on the consumers within the EU (European Commission, 2012). Considering all of this, it can be stated that the impact of the EU sugar reform on sugar prices was short-lived and limited in scope.

Figure 12. Sugar price index (2001 – 2010).
To summarise the case, the evidence presented in this paragraph allows to draw the following conclusions. The trend of sugar imports within the EU had been steadily increasing for the five years before the ruling. This happened regardless of the existence of the EU sugar regime, which subsidized internal sugar production and allowed European farmers to export sugar for a very low price. The dispute favoured Brazil and led to a reform of the sugar regime, which was effective in lowering the price for sugar worldwide, although for a short period of time and with no significant effect on producers and consumers. The reform is not correlated with a change in the import of Brazilian sugar within the EU, which continued to increase, consistently with an increase in the demand for foreign sugar. The dispute put external pressure and international attention on the EU and determined a significant regulatory change; however, this change does not appear to have caused a dramatic shift in the trend of trade flows.

4.5 Brazil vs European Communities — Chicken Cuts

The case was initiated by Brazil against the European Communities in October 2002. The reason for the dispute lies in a change in the classification of poultry products implemented by the European Communities with the EC Commission Regulation No. 1223/2002 of 8 July 2002. Such regulation changed the description of the goods which fall under the Common Nomenclature code 0207.14.10 (Meat and edible offal, of the poultry of heading 0105, fresh, chilled or frozen). According to the new definition, chicken products containing salt would also fall under this category and would, therefore, be subject to a tariff rate of 102.4 €/100kg/net. Brazil claimed that this change was unfair considering that, previously, all salted meat was classified under the CN code 0210.99.39 (Meat and edible meat offal, salted, in brine, dried or smoked; edible flours and meals of meat or meat offal) and therefore subject to a tariff rate of 15.4 %, which was - in practice - lower than the one imposed by the new regulation.

The Panel ruled in favour of Brazil and of all the other complainants, as the new regulation limited the concessions made under the CN code 0210.99.39. The EC decided to appeal the Panel decision. The AB, despite reversing one of the findings, substantially upheld the Panel’s ruling. The EC notified the implementation of the report in July 2006.

For the analysis of this dispute, it is relevant to observe the trade flows of both 0210 and 0207 and compare the results. It is easy to see that the EU regulation affected these trade flows substantially. Indeed, the shift in trade classification determined a change after 2006. The value of imports of 0210 rises while 0207 decreases after 2006. This can be easily seen as a consequence of the Panel ruling, which caused several products to switch from being classified as 0207 to 0210. The issue seems to be merely a question of classification. It should also be noted that
right after the implementation of the ruling on behalf of the EU the trade flows align for both CN codes. Therefore, the implementation of the WTO ruling caused a shift in trade flows which are merely due to a different categorisation.

In order to deepen the analysis of the case, the cumulated value of imports of frozen chicken cuts has been added to the figure. From this piece of evidence, it can be seen that the total value follows the same increasing trend as the value of imports of salted meat (0210). Furthermore, the increase occurs in correspondence with the resolution of the dispute. Indeed, it seems to be the case that the resolution of the dispute determined an increase in the value of imports of the relevant good(s) from the complainant country. Nonetheless, it should also be noted that the increase immediately following 2006 normalises over the course of a few years. Indeed, the trend from 2009 onwards does not display as remarkably positive, signalling that the effects of the dispute – *ceteris paribus* – were short-term.

*Figure 13. EU imports of chicken cuts from Brazil (2002 – 2011).*

![Chart showing EU imports of chicken cuts from Brazil (2002 – 2011).](chart)

Note: CN code 0207 (Meat and edible offal of poultry; of the poultry of heading no. 0105, (i.e. fowls of the species *Gallus domesticus*), fresh, chilled or frozen) and 0210 (Meat and edible meat offal; salted, in brine, dried or smoked; edible flours and meals of meat or meat offal). Values in current USD.

To continue with the analysis, the trends of both demand indicators have been investigated. The first indicator – the share of Brazilian chicken cuts imported in the EU over the total chicken imports in the EU – is high to begin with. The first element which can be drawn from the indicator is the relevance of this trade flow for both partners. More than half of the chicken imports in the EU comes from Brazil. This evidence has to be interpreted in the light of the EU regulation concerning meat import. The DG for Health and Food Safety is responsible for the establishment of import conditions for all animals and animal products entering any of the Member States, to which all of the exported have to adhere. The norms concern sanitary and phytosanitary standards, as well as rules regarding animal welfare. Compliance is monitored through a list of authorised exporters.
and Border Inspection Post (BIP). Any country wishing to export has to prove adherence to the EU standards (EC, 2019). As a result, the authorised exporter countries for animals and animal products are limited in number. At the same time, once an exporter gains access to the European market, the chances of withdrawing from this market are fewer, due to the high cost of entering the market in the first place. The combination of these elements makes the supply market for animal products in the EU highly concentrated.

Figure 14. Indicators on the demand for chicken in the EU.

The indicator shows a remarkable increase in the timeframe considered, which allows to conclude that the trade relationship strengthened and grew over the years. The increase seems to be starting in 2003 – a considerable amount of time before the implementation of the Appellate Body report. Therefore, it is relevant to investigate additional affecting factors. 2003 was a nefarious year for the poultry industry, dominated by the outbreak of the Highly Pathogenic Avian Influenza (HPAI), which indirectly affected EU imports of chicken products. HPAI is a highly contagious virus which affects birds and is highly contagious. HPAI can affect humans after prolonged and close contact with ill birds (CDC, 2019). The HPAI emergency of 2003 originated in Asia. In order to prevent the spread of the disease across Europe, in 2004 the DG for Health and Food Safety imposed several bans on imports of birds and their products into the EU from several countries, including Thailand, the US and Canada (European Commission, 2004). The ban concerned some of the main trading partners with regards to chicken products, but did not involve Brazil, since the epidemics affected mainly Asia and – to a lesser extent – North America. Pairing this factor with the significant increase of chicken cuts imported from Brazil, we can assume that the main driver of such increase has been the ban on imports from other regions. Brazil could benefit from the constraint by providing to the EU the amount of chicken cuts which originally came from the countries that were hit by the HPAI epidemics and, therefore, became a dominant supplier for the European market through substitution effect.

Source: UN Comtrade.
The second indicator – the share of chicken cuts over the total amount of EU imports – is subject to light fluctuations over the course of the years. Such changes, though, do not allow to mark a specific upward or downward trend. Additionally, the values span little and therefore do not carry significant information for this case. What can be said is that the demand for chicken cuts in the EU maintained itself on a relatively stable level over the period. The HPAI epidemics did not affect the total value of imports substantially.

The conclusion for this case is that the dispute contributed to an increase in trade flows between the two contenders. The dispute managed to solve a classification issue; which altered the trade value of the two categories at stake – namely 0207 and 0210 -. Additionally, it determined an increase in the cumulated value of trade flows of the relevant goods. However, the effect did not extend to the long-term. Trade flows normalise within a five-year period. The EU has, however, increased the amount of chicken imported from Brazil compared to the amount of chicken imported by other trade partners. This trend finds its roots before the settlement of the dispute and is much likely attributable to the import restrictions imposed in 2004 as a consequence of the outbreak of HPAI in various Asian and North American countries. Over the entire period, the demand for chicken cuts within Europe has remained relatively unchanged. The regulatory changes appear to be relevant to the same extent as market specific, contingent factors.

4.6 Ecuador vs the United States — Shrimps

Ecuador requested consultations with the United States in 2005, with regards to anti-dumping measures imposed by the US on imported shrimps. Specifically, the triggering factor for the dispute was the “zeroing” practice applied by the US with regards to anti-dumping duties. This resulted in an inflation of dumping margins and ‘unfair and improper comparisons between the export price and the normal value’ (WT/DS335/1). This was only one of a series of cases brought against United States’ practice of zeroing. Similar cases concern orange juice from Brazil and shrimps from Vietnam (Voon, 2011).

The US Department of Commerce (DOC) was found to have violated the WTO agreements, and, therefore, the United States had to withdraw from the application of the challenged measures. The DSB adopted the Panel report on February 2007; the United States notified the implementation of the DSB’s rulings in August 2007.

From figure 15 it is possible to see the trend of the imports of Ecuadorian shrimps into the United States. What can be easily observed is a general upward trend in the timeframe considered. The outbreak of the dispute and the following resolution do not appear to have altered the general increase. To deepen the analysis, it is relevant to report the information on the shrimp sector in Ecuador published by FAO (2019). Between 1999 and the early 2000s the shrimp sector had to suffer the negative consequences of two events which diminished the volume and value of the Ecuadorian shrimps’ exports. The first event was the outbreak of the White Spot Syndrome Virus in 1999. The disease spread around several farms around the country and had dramatic consequences on the overall shrimp production. The second element was a general fall in the prices of shrimps – which occurred in 2001 and (according to FAO’s analysis) may be due to an oversupply of shrimps from China, Brazil and Taiwan. The two elements combined caused a general decrease in the value of exports of shrimps from Ecuador. The recovery –
according to FAO – started around 2004, when the species were able to develop resistance to the virus. Since then, shrimps production and exports seem to be on the path to recovery. This claim is consistent with the findings related to the value of imports of Ecuadorian shrimps into the US. The increasing trend, then, must be interpreted as a gradual path to recovery from the adverse market conditions of the previous years.

Figure 15. US imports of shrimps from Ecuador (millions of USD)

Note: HS code 030616 (Crustaceans; frozen, cold-water shrimps and prawns (Pandalus spp., Crangon crangon), in shell or not, smoked, cooked or not before or during smoking; in shell, cooked by steaming or by boiling in water). Values in current USD.

The second dimension of the analysis deals with controlling for the two demand indicators. The trend of the first indicator shows a steady and relevant increase over the timeframe, spanning from 6,9% to 13,5%. The US chose to import more and more shrimps from Ecuador – as shown by the previous analysis – and this holds true even when confronting the value of shrimps imported from Ecuador with the total imports of shrimps. Again, however, this trend finds its origins before the two countries engaged in dispute settlement and continues after that without any noteworthy shifts of trend.

The second indicator expresses the trend of the internal demand for shrimps within the US. This value decreases over the years, but not in a consistent nor significant way. The fluctuations are not sharp and – therefore – cannot be taken as a clear indication of a decisive increase or decrease of the level of demand for shrimps within the country.
As a conclusionary note on the case, the following statements can be safely made on the effect of the dispute. First, the yearly trade value of shrimps between Ecuador and the US has been steadily increasing since the early 2000s. This can be interpreted in relation with the adverse events of 1999-2001 (namely the White Spot Syndrome Virus and the fall in prices) which had negatively affected the exports of shrimps from Ecuador to the US. After these adversities had been overcome, around 2004, trade flows started to recover, going back to their original values. At the same time, the share of Ecuadorian shrimps over the total imports of shrimps in the US slowly increased over time and the US demand for shrimps did not decrease. However, the year marked by the resolution of the dispute does not correspond to any noteworthy change in the trend of any of the indicators taken into consideration. The dispute did not meaningfully impact any of the trade dimension, thus suggesting that the increasing trend would have manifested even in the absence of litigation.
## 4.8 Summary table

<table>
<thead>
<tr>
<th>Dispute</th>
<th>Year</th>
<th>Complainant</th>
<th>Respondent</th>
<th>Outcome</th>
<th>Trend of trade</th>
<th>Apparent effect on trade</th>
<th>Other intervening factors</th>
<th>Conclusion</th>
</tr>
</thead>
<tbody>
<tr>
<td>DS231 – Trade description of sardines</td>
<td>2001</td>
<td>Peru</td>
<td>EC</td>
<td>Mutually acceptable solution on implementation notified (2003)</td>
<td>Variable, highly dependent on environmental conditions</td>
<td>Decrease trade flows after resolution</td>
<td>Scarcity in the fishing sector</td>
<td>An effect is observed in the long term</td>
</tr>
<tr>
<td>DS219 - Anti-Dumping Duties on Malleable Cast Iron Tube or Pipe Fittings</td>
<td>2001</td>
<td>Brazil</td>
<td>EC</td>
<td>Implementatio n notified by respondent (2004)</td>
<td>Increasing since 2001</td>
<td>No effect</td>
<td>No evident effect</td>
<td></td>
</tr>
<tr>
<td>DS266 - Export Subsidies on Sugar</td>
<td>2002</td>
<td>Brazil</td>
<td>EC</td>
<td>Report(s) adopted, with recommendatio n to bring measure(s) into conformity (2006)</td>
<td>Increasing</td>
<td>Lower prices on the short term, no effect on trade flows</td>
<td>No effect is found</td>
<td></td>
</tr>
<tr>
<td>DS269 - Customs Classification of Frozen Boneless Chicken Cuts</td>
<td>2002</td>
<td>Brazil</td>
<td>EC</td>
<td>Implementatio n notified by respondent (2006)</td>
<td>Slightly increasing since before the dispute, higher demand for chicken cuts from Brazil</td>
<td>Different classification of chicken products, no effect on trade volumes</td>
<td>High market concentration, outbreak of the HPAI virus</td>
<td>Dispute is positively correlated with trade flows in the short term, but other intervening factors do not allow to infer causality</td>
</tr>
<tr>
<td>DS335 - Anti-Dumping Measure on Shrimp from Ecuador</td>
<td>2005</td>
<td>Ecuador</td>
<td>US</td>
<td>Implementatio n notified by respondent (2007)</td>
<td>Steadily increasing since 2004</td>
<td>No effect</td>
<td>White Spot Syndrome Virus, fall in prices</td>
<td>No effect is found</td>
</tr>
</tbody>
</table>
5. Conclusions

5.1 Overview of the study and conclusory statements

The present study intended to provide an evaluation of the WTO dispute settlement mechanism. Indeed, the central puzzle was whether dispute resolution within the WTO could be considered as an effective way to promote trade. The research aimed to investigate the relationship between winning a WTO trade dispute and the trade flows of the involved parties. Specifically, the research question articulated in the following way:

*How does prevailing in WTO disputes against developed countries influence trade in Latin American countries?*

To carry out the analysis, a selection of WTO disputes involving Latin American countries has been made. These disputes were investigated following a qualitative approach, meaning employing a case study methodology. The main research question articulatred into four different sub-questions, whose answers have been presented during the course of this study. The first sub-question dealt with the current functioning of the WTO DSM. Answering this first sub-question was the preliminary step to understand how the system is shaped at the present time, which are the key phases of the process and the potential consequences of the rulings. Once that has been introduced, the paper moved to the second sub-question, which was meant to investigate what is already known about the effects of the DSM on the trade flows of the involved countries. Some of the existing studies about the relationship between DSM and trade have been presented and assessed. The general picture of the link between the dependent and the independent variable was not straightforward. Some studies postulated a positive relationship between participation in the DSM and trade between the two litigants. Other scholars did not find any evidence of a causal mechanism, suggesting that states would always find secondary ways to protect their key industries if they intend to do so – regardless of any international trade regulations. The unclear picture provided by the existing studies provided the relevance for the current study.

The third sub-question dealt with the evidence over the participation of Latin American countries within the DSM. This sub-question engaged with multiple aspects. Are there countries which initiate litigation more often than others? Which countries are most often complained against? Which are the most common issue areas? The answer to this question was provided by a review of the existing studies. It has been found that LACs do not initiate disputes evenly. Indeed, countries with bigger economies are more likely to issue complaints. Some of the smaller countries have not yet issued a single complaint, despite being a WTO member for decades. In a similar fashion, it has been found that complaints are most often addressed against a limited set of countries, specifically the EU and the US. The most common issue areas concern agricultural products, most likely as a consequence of the relevance of the primary sector for the national economies of LAC. It should also be remarked that a great number of LAC are indeed at the developing stage, therefore their lack of participation can be interpreted as a result of the underrepresentation of developing countries within the WTO, a topic that has been extensively addressed by the existing literature.

The fourth sub-question was an empirical one and it dealt with the core issue of the research. The aim of the question was to assess whether participating in and winning disputes in the WTO determines an increase in the
trade flows of the relevant goods between the complainant and the respondent country. Put differently, the central question was whether the trade liberalisation caused by the WTO ruling was indeed effective in increasing the trade flows from the complainant – and winner – to the respondent. For each of the selected cases, the relevant trade flows have been analysed. The timeframe considered spans from five years before the resolution of the dispute to five years after. In addition, some relevant factors have been analysed, in order to eliminate the risk of drawing a causal mechanism without accounting for other intervening factors. The findings do not indicate a relationship between the dependent and the independent variable. In the cases that have been analysed for the purposes of this paper, it is not possible to postulate that a formal victory in a WTO dispute increases trade flows between the complainant and the respondent. The only exception is represented by the Brazil – EC case over frozen boneless chicken cuts. Nonetheless, the positive effect on trade is mitigated within five years. Additionally, when controlling for other variables, there is evidence of other intervening factors which might have contributed to such increase, thus not allowing for the postulation of a causal mechanism.

What should be added to this analysis is that the absence of evidence of effect does not imply that the dispute had no effect on trade flows. Indeed, the rulings could have had a positive effect on trade flows, but such effect might have been offset by other intervening factors. This statement would be verifiable through a counterfactual analysis aimed at investigating what would have been the trend of trade had the dispute not taken place.

Considering all of these factors, it is possible to answer the central research question. Prevailing in WTO disputes against developed countries is not correlated to an increase in trade in Latin American countries. For some of the cases, the relevance of the dispute does not lie in trade liberalisation brought by the ruling, but rather in the fact that – through the DSM – some developing countries were able to have their voice heard in the international trade scenario. It is sensible to hypothesise that this last statement holds true for other cases of litigation involving developing countries against high-income countries.

5.2 Correlation and causation

The difference between correlation and causation needs to be factored in for a correct interpretation of the results of this study. Therefore, I chose to dedicate this brief section to this end. As previously stated, the results of the analysis show no correlation between prevailing in disputes and increased trade flows with regards to the countries at hand. The two events do not occur simultaneously – or, better yet, the few cases in which the two events do occur simultaneously are not enough to be a statistically significant proof.

This said, the only outcome which can safely be inferred by the results of this study is the absence of correlation; such absence, though, does not step into the grounds of causality. Indeed, the lack of correlation between the two variables does not tell us about the effect of winning disputes in the analysed cases. We cannot infer, then, that the effect of winning disputes is null, but only that there is no evidence of an increase of trade flows following the ruling. Inferring causality would not have been scientifically correct even in the event of a positive correlation. Had that been the case, the two events would have merely been linked. The effect of a WTO ruling on trade flows cannot be inferred with the kind of analysis performed in this study.
What the results of this research can tell us, though, is that – given a victory in a WTO dispute – it is not likely that an increase in trade flows will follow. The two events are independent from each other.

On the other hand, as remarked above, the absence of evidence is no evidence of absence. The lack of correlation between the two variables does not mean that WTO ruling do not affect trade flows in any way. Instead, it only signals that the effect is not evident in the form of direct correlation. It is still possible that a ruling affects trade flows between the two partners, but that such effect does not manifest itself due to the influence of other factors. One should not conclude that the lack of correlation proves the two events are completely distinct from each other, but only that the occurrence of one will not increase the likelihood of the other happening. Indeed, other factors might have more explanatory power over the dynamic of bilateral trade flows than WTO rulings.

5.3 Implications

The results of this research carry implications of twofold nature. Both theoretical implications, meaning going beyond the immediate conclusions and reflecting over the meaning of the results of the study for the DSM, and policy implications, meaning how can the results be used to improve the possible fallacies of the current system.

The conclusions of this study imply that the current DSM is not the most effective way to avoid the imposition of trade barriers. The states which successfully challenge restrictive measure imposed by a commercial partner will not necessarily see an increase in trade flows as a result. This might certainly discourage states from taking advantage of the DSM. Indeed, engaging in litigations is a long and expensive process; some of the smaller states might not even have the legal or economic capacity to carry out the dispute for the entirety of the process. If the costs of participating exceed the benefits gained from the victory, member states could indeed decide to abstain from participating at all, seeking to defend their interest in alternative ways. Such a mechanism – when occurring on a large scale - has negative implications for the functioning of the WTO as a multilateral organisation. If member states choose to withdraw from any multilateral organisation, international collaboration will be irreparably damaged.

On the other hand, the results of this study and the ones of similar nature might indeed be a stimulus towards a reform of the current system. The present WTO impasse is perhaps the most striking evidence that many features of the WTO have to undergo a change in order to avoid fragmentation. Indeed, WTO reform has been highlighted as one of the priorities for the next G20 summit happening in Osaka (Archambault, 2019). The current structure and functioning of the WTO are being challenged by several contingent factors; the US block on the Appellate Body being only one of them. The current discourse on the reform focuses on the fact that the updated WTO rulebook will have to deal with the tools of the emerging digital economy (i.e. provide clear rules for the regulation of the digital market), as well as securing a place in the negotiations for emerging economies (Valero, 2018). In terms of policy reform, there is space for a reconsideration of the goals and objectives of the WTO system. It is little realistic to be confident that a single multilateral institution will lead to a benefit for all of its members through trade liberalisation. At the same time, it is not realistic to be confident that none of the member
states will attempt free riding to the damage of another member. Therefore, instead of having the liberalisation of trade as the sole guiding light towards a prosperous future, one should reconsider the ways in which a multilateral, voluntary organisation can promote the benefit of all of its members whilst not being ideologically biased. What that entails is finding a balance between national autonomy, international collaboration and binding compliance mechanisms. In a time in which the protection of national sovereignty is shadowing the potential benefits of cooperation, international institutions should not attempt to defend a mechanism which proved to be unfit for the present times, but instead, find ways to reform it in such a way that it responds to the present needs.

5.4 Limitations and future research

For the study to be complete, an assessment of its limitations has to be carried out. The first limitation concerns the research design. Case study research is by nature limited in the number of cases analysed, and therefore it is less adapt to generalisation. Indubitably, a quantitative approach on the same matter would add value to the findings and perhaps deliver more relevant conclusions. Secondly, it has to be stated that the approach adopted does not allow to quantify the degree of influence that the independent variable has compared to the other intervening factors. It is not possible to state with absolute certainty that the intervening factor was the major determinant of an increase or decrease in trade flows. The conclusions drawn in this study rely on logic, not on hard evidence, for which a regression would have been ideal. The last issue related to the qualitative research design lies in the limited number of cases analysed. On the other hand, such a restricted choice had to be done also because of the limited amount of available data on trade before 2000 and because of the limited number of disputes involving LAC that aligned with all of the criteria.

Furthermore, despite having concluded that there have been no gains for the complainant LACs, one should consider the possibility that an increase in trade flows is not the only possible gain. Complainants could, indeed, have benefitted from the DSM in other ways which are not apparent from the trade data. This last consideration could lay the foundations for future research on the indirect gains from the participation in the DSM.

As a final suggestion, the research question might be reversed. To further the knowledge on the WTO DSM, it would be relevant to investigate the other half of the spectrum as well. Future research could investigate whether losing in the WTO DSM brought any harm to the challenged countries. This complementary evidence would indeed add great value to the conclusions of this study.
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