



OECD Steel Committee

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WTO Dispute Settlement

An Important Trade Policy Instrument

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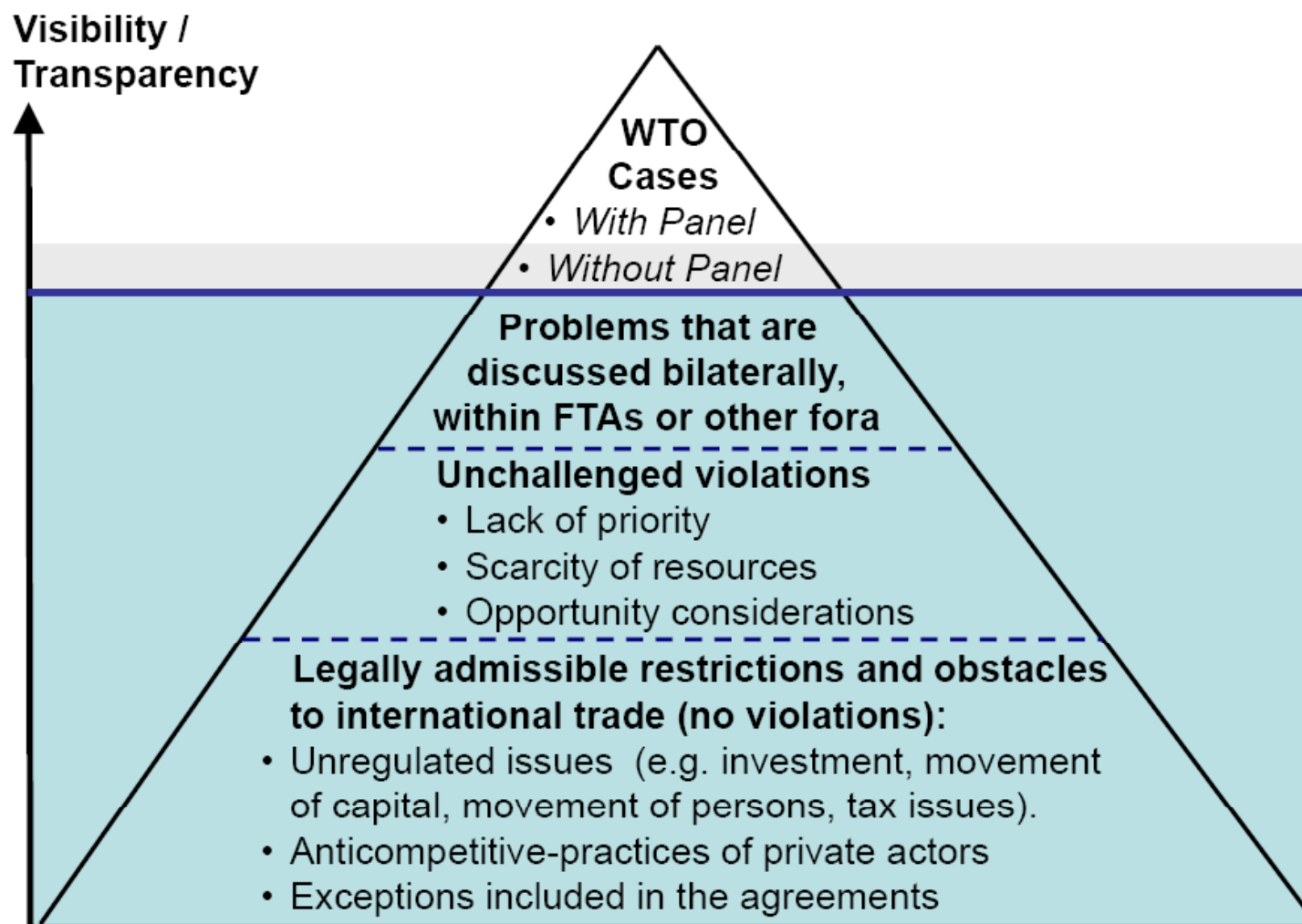
University of St.Gallen

Programme

1. WTO Dispute Settlement: Introduction
2. Use of WTO Dispute Settlement
3. Steel Disputes before the WTO
4. Strengths and Weaknesses
5. Outlook
6. Conclusions
7. Further Information

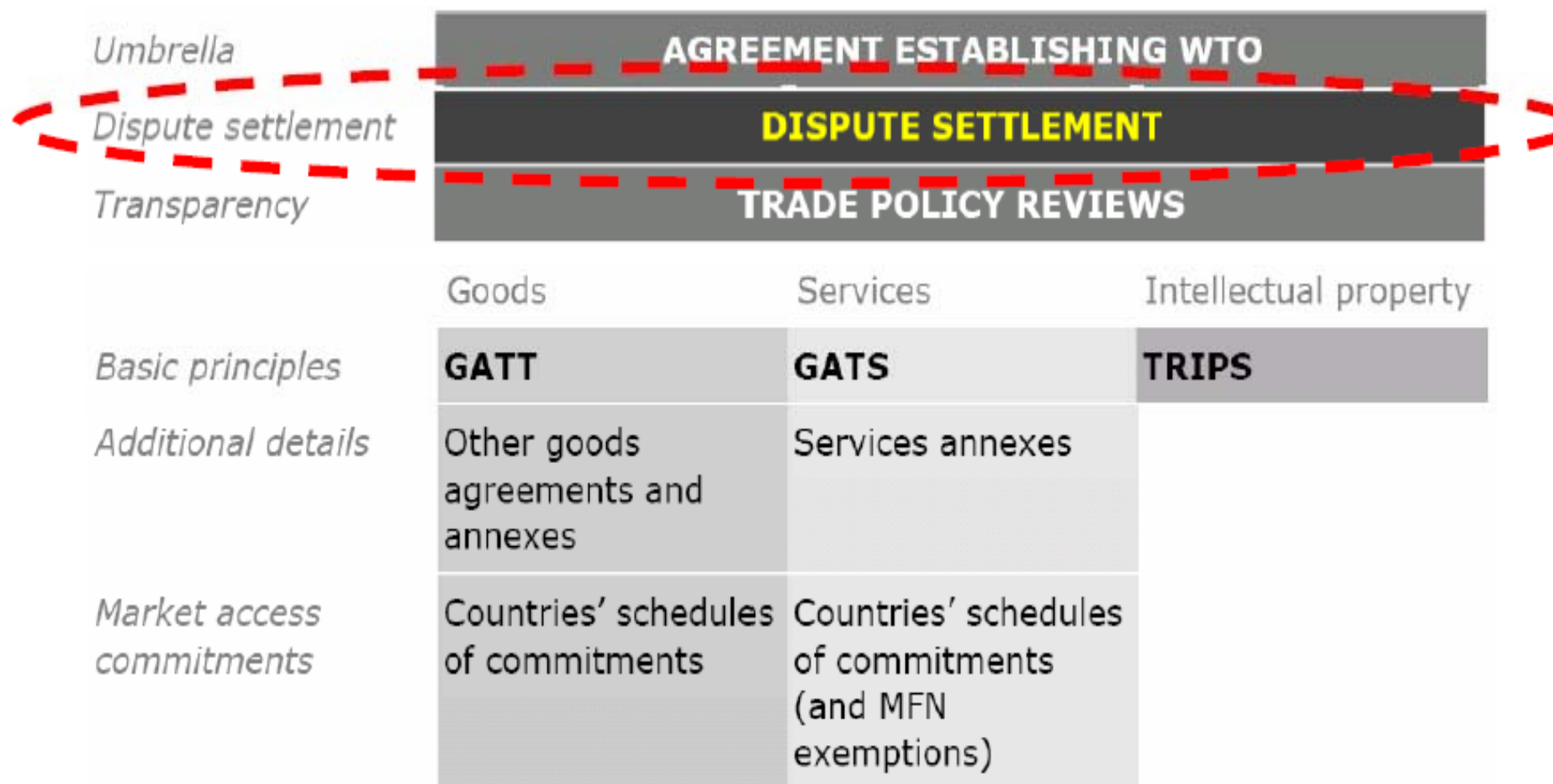
1. WTO Dispute Settlement: Introduction

WTO Dispute Settlement and the 'Iceberg of Protectionism'



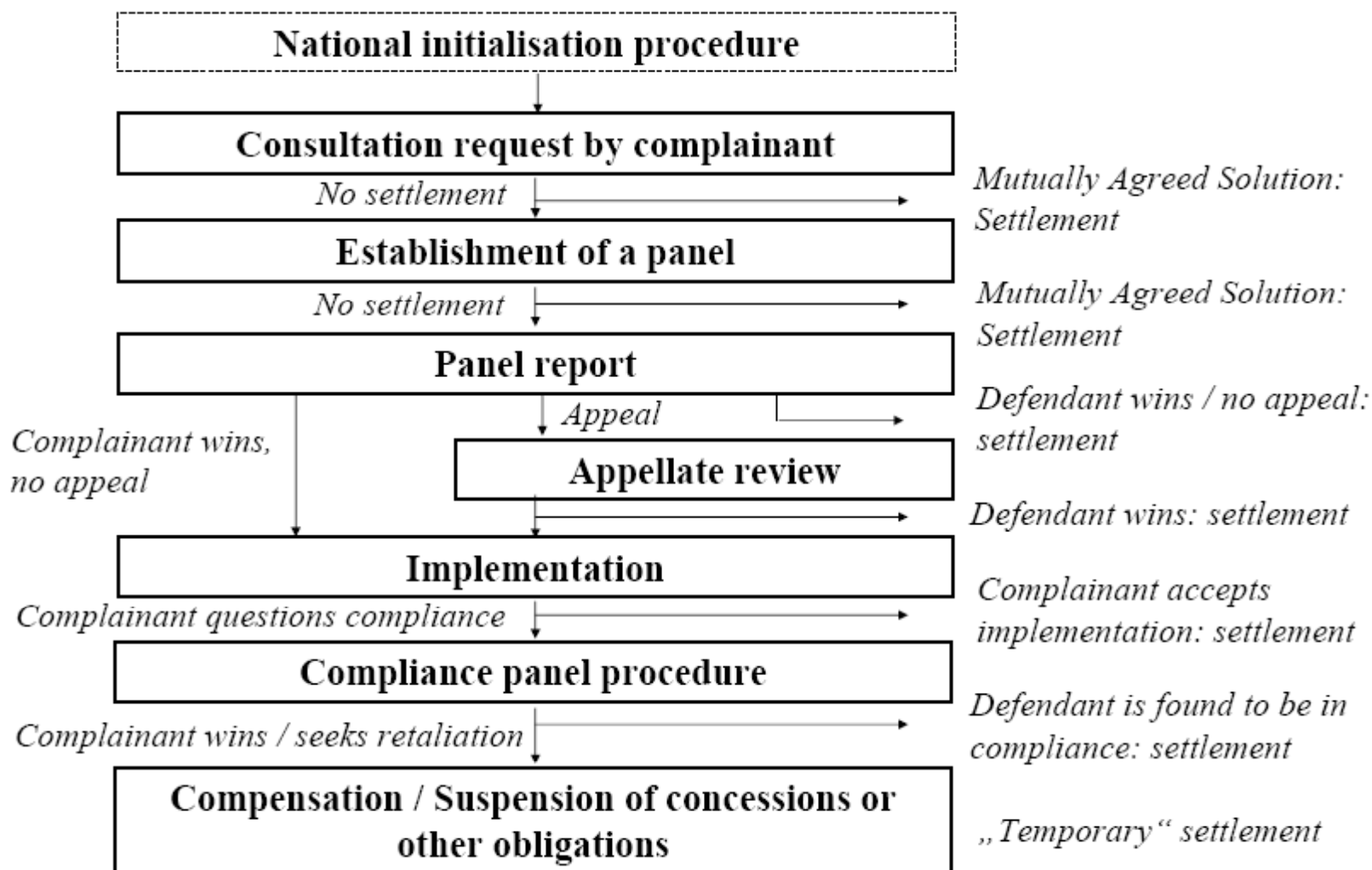
1. WTO Dispute Settlement: Introduction

Institutional Setup



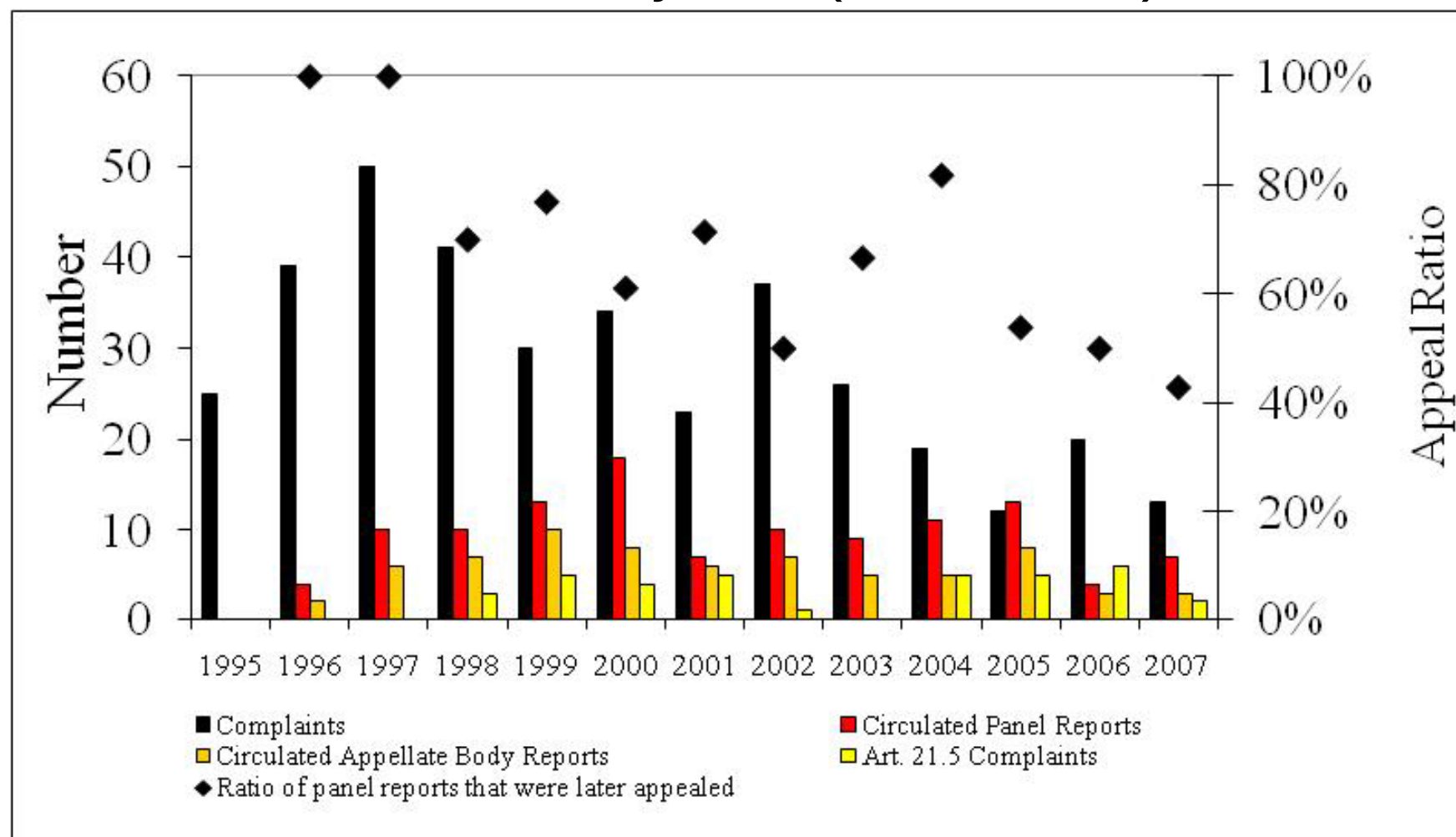
1. WTO Dispute Settlement: Introduction

Procedure



2. Use of WTO Dispute Settlement

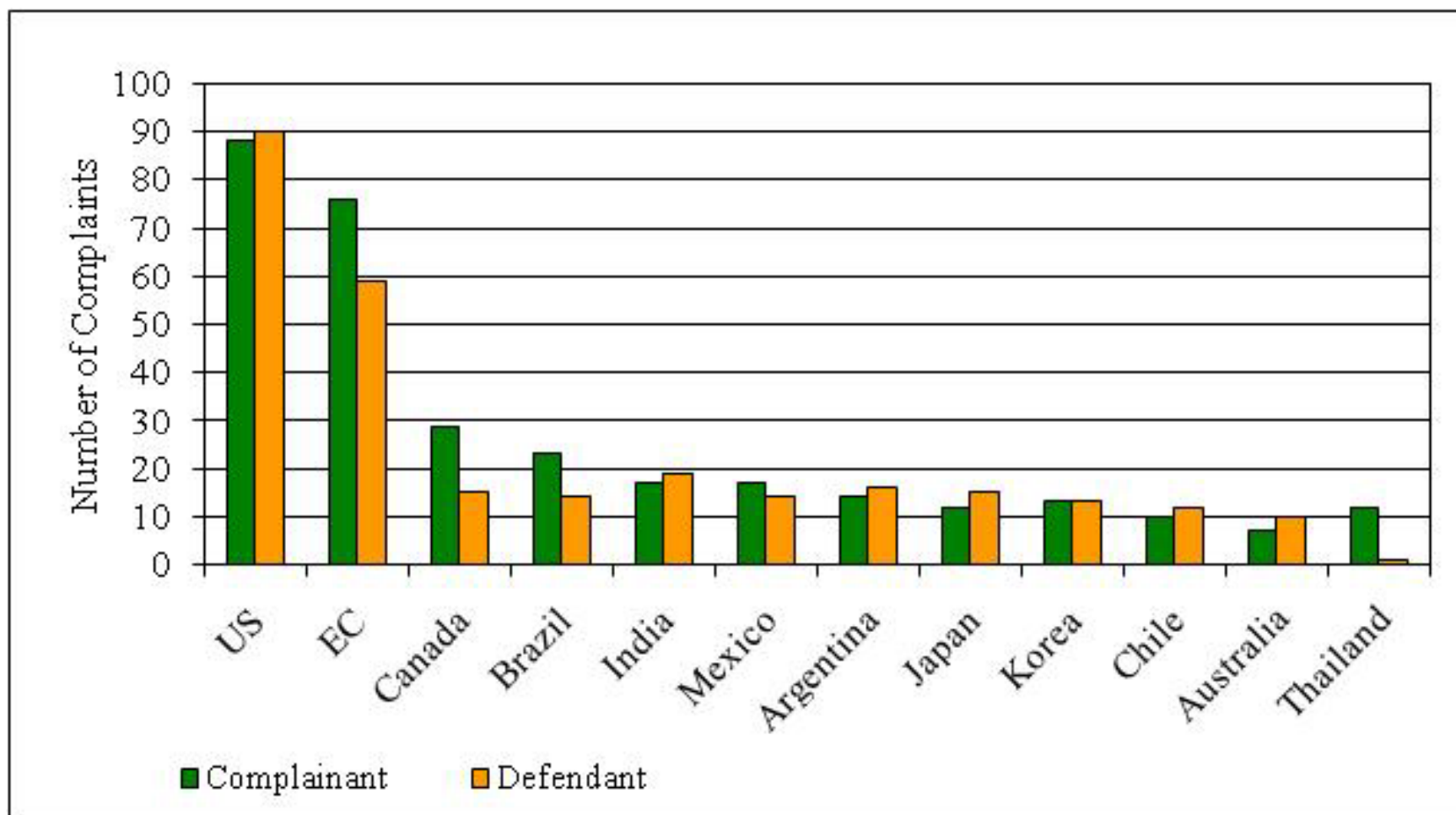
Use in the first thirteen years (1995-2007)



Data source: WorldTradeLaw.net (<http://www.worldtradelaw.net>) / Graph: Thomas A. Zimmermann; 2008

2. Use of WTO Dispute Settlement

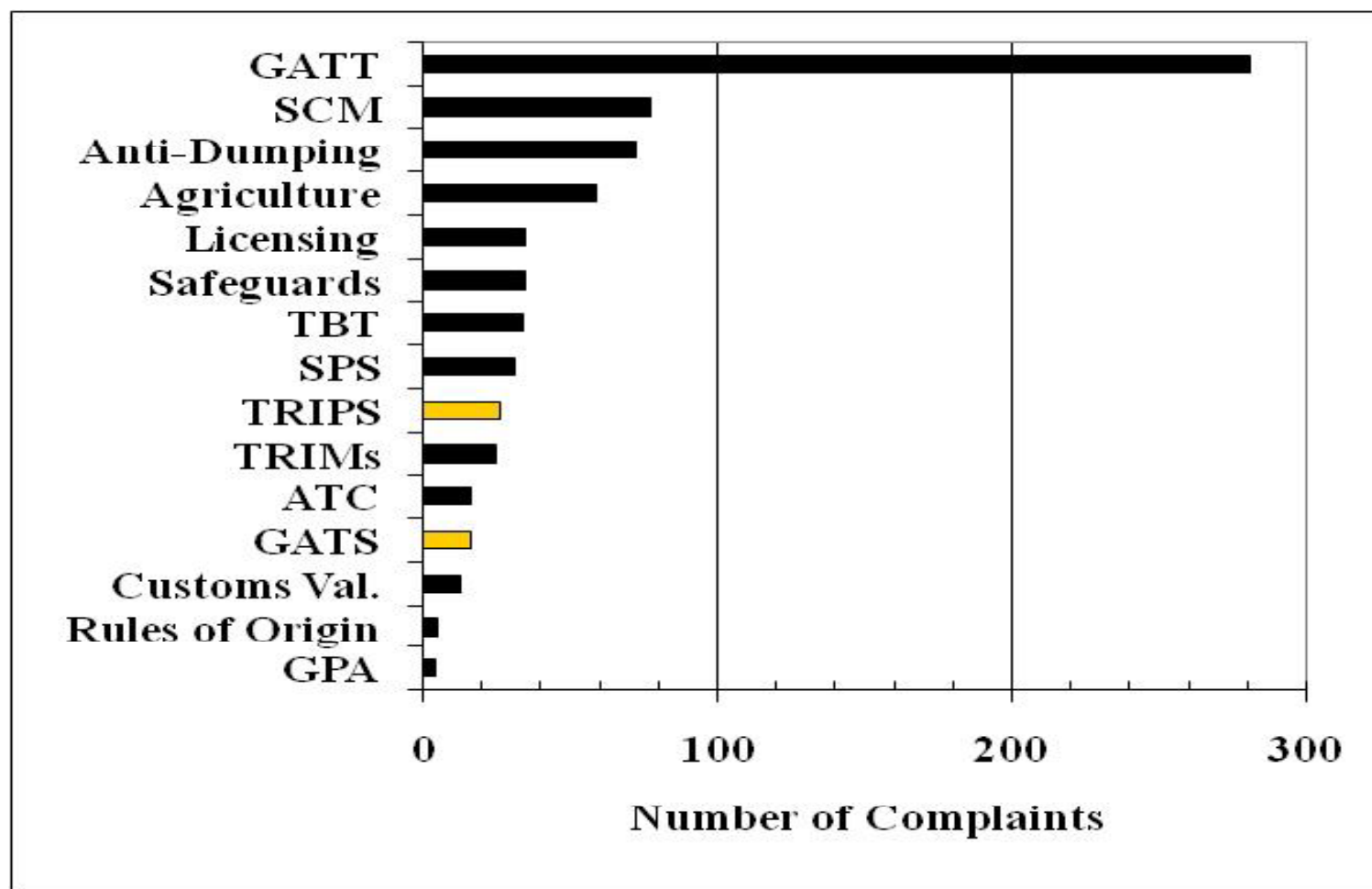
Main users (1995-2007)



Data source: WorldTradeLaw.net (<http://www.worldtradelaw.net>) / Graph: Thomas A. Zimmermann; 2008

2. Use of WTO Dispute Settlement

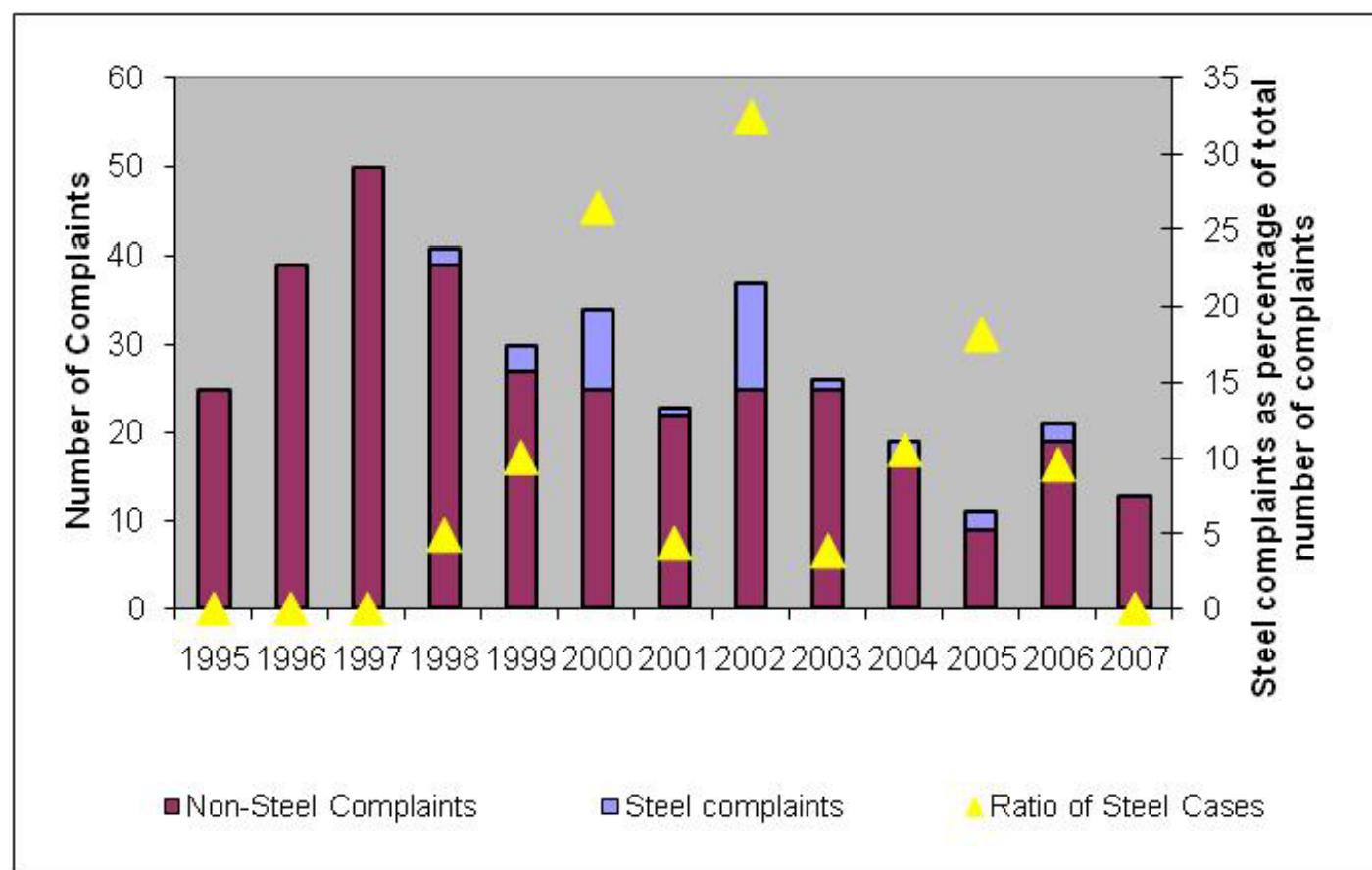
Disputed Provisions (1995-2007)



Data source: WorldTradeLaw.net (<http://www.worldtradelaw.net>) / Graph: Thomas A. Zimmermann; 2008

3. Steel Disputes Before the WTO

Share of Steel Disputes (1995-2007) (Restrictive Count)



Data source: WTO (<http://www.wto.org>) / Graph: Thomas A. Zimmermann; 2008

3. Steel Disputes Before the WTO

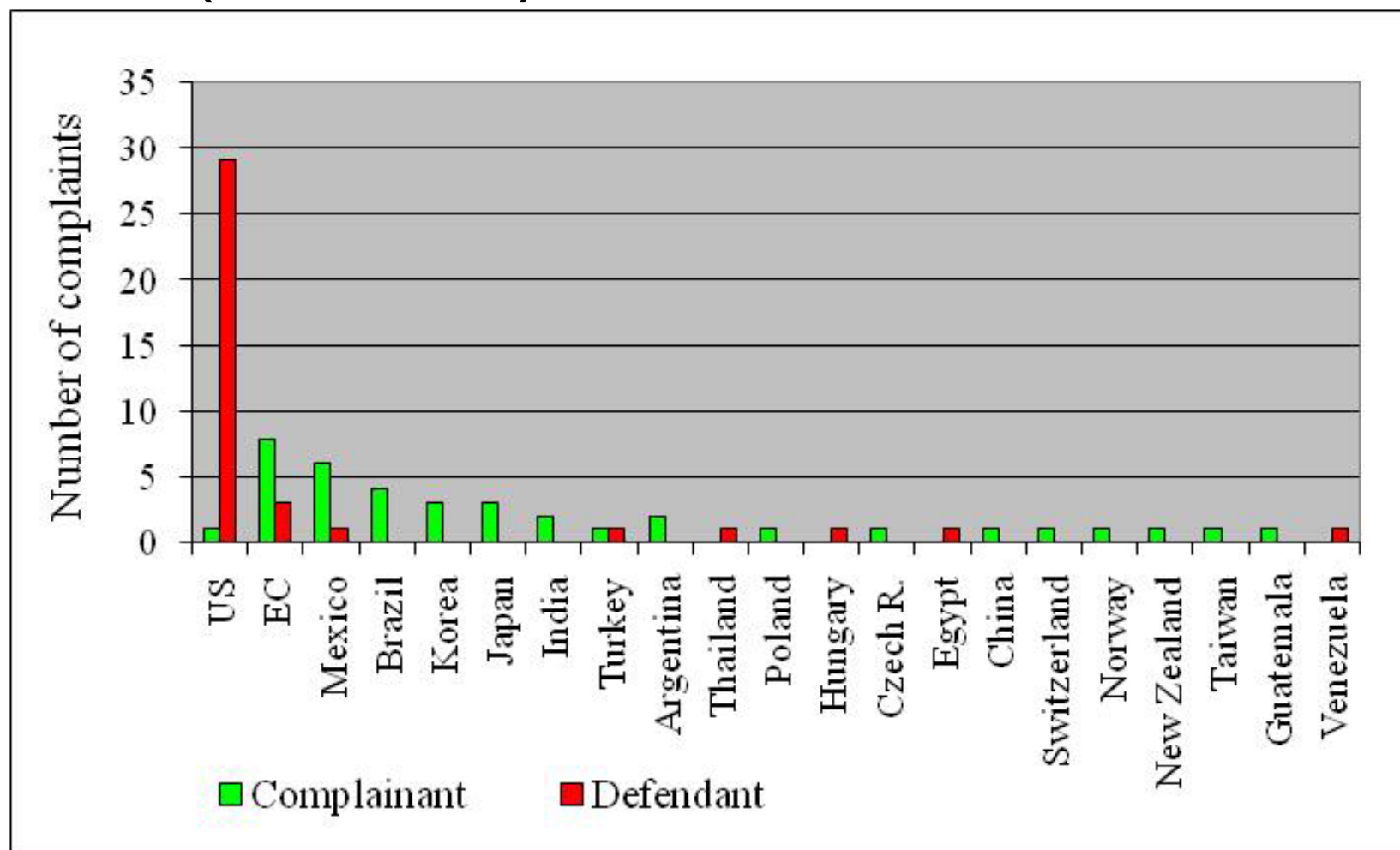
Share of Steel Disputes (1995-2007)

The previously shown numbers on „steel disputes“ likely lead to an underestimation of the importance of WTO dispute settlement for the steel sector. The main reason is that this restrictive count does not take into consideration:

- Disputes concerning products that do not primarily consist of steel but that do have a steel component (airplanes, automotive products);
- Disputes on general disciplines (e.g. Anti-Dumping rules, port of entry requirements, customs bond requirements, customs valuation, taxation, performance requirements etc.) that also apply to steel trade.

3. Steel Disputes Before the WTO

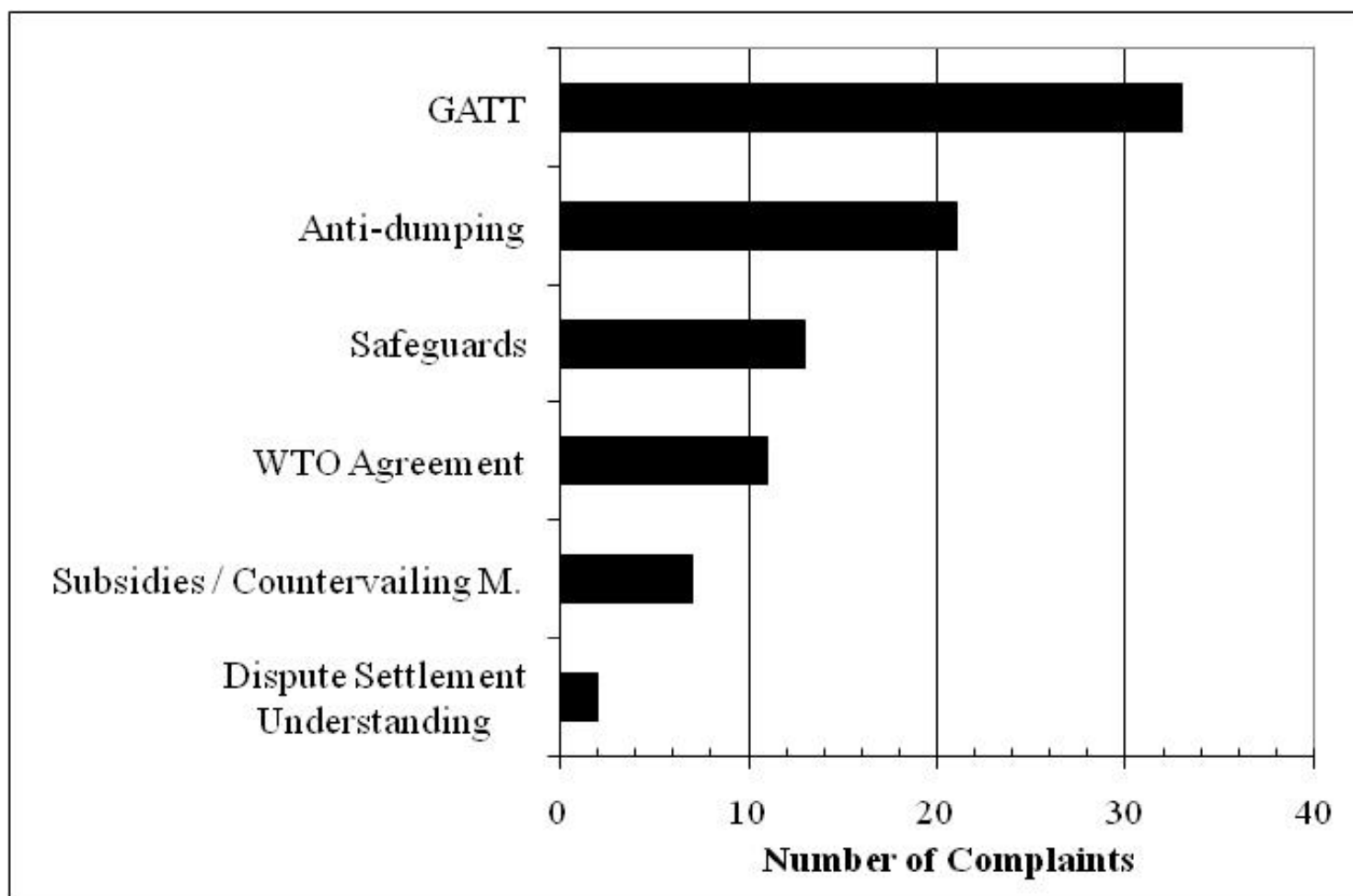
Users (1995-2007)



Data source: WTO (<http://www.wto.org>) / Graph: Thomas A. Zimmermann; 2008

3. Steel Disputes Before the WTO

Disputed Provisions (1995 – 2007)



Data source: WTO (<http://www.wto.org>) / Graph: Thomas A. Zimmermann; 2008

3. Steel Disputes Before the WTO

Example: The *US – Steel Safeguards* Case

Positive Experience (selection):

- The case was examined and reports were presented within an acceptable period of time;
- The safeguard measures were repealed;
- Uncontrolled escalation was avoided;

Negative Experience (selection):

- The measures remained in force from 3-02 – 12-03;
- No provisional measures were available;
- The system could not deter the US from implementing the Safeguard measure;
- Adverse economic effects could not be avoided

4. Strengths and Weaknesses

Strengths of the System (Selection)

- No blocking possibilities for defendants;
- Model character of appellate review system;
- Short time-frames (at least on paper....);
- Flexibility in the use;
- So far, the system has enjoyed broad legitimacy.

Potential Weaknesses of the System (Selection)

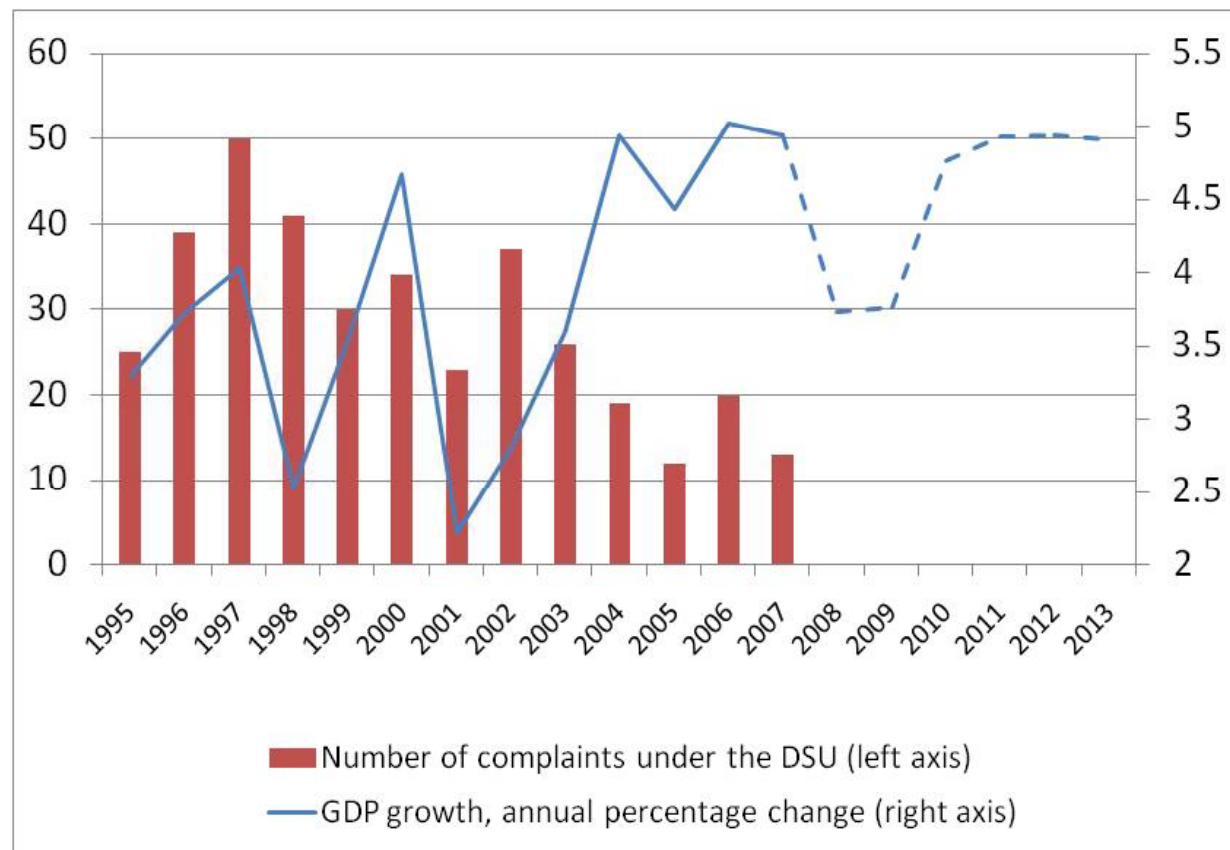
- Lack of effective enforcement / no provisional measures.
- Retaliation is a poor means for ensuring compliance;
- Time-frames are not always respected;
- Developing countries and LDCs find the system difficult to use.
- Imbalance between political and legal decision-making;
- Private parties may not bring complaints (weakness?).

5. Outlook (I)

Short Term Perspective

Factors with a possible impact on the DSU in the short/medium term:

- The outcome of the Doha Round;
- Rising protectionist sentiment and a deterioration of the economic situation



Data sources: WorldTradeLaw.net (<http://www.worldtradelaw.net>)
International Monetary Fund (WEO April 2008 database; <http://www.imf.org>) /
Graph: Thomas A. Zimmermann; 2008

5. Outlook (II)

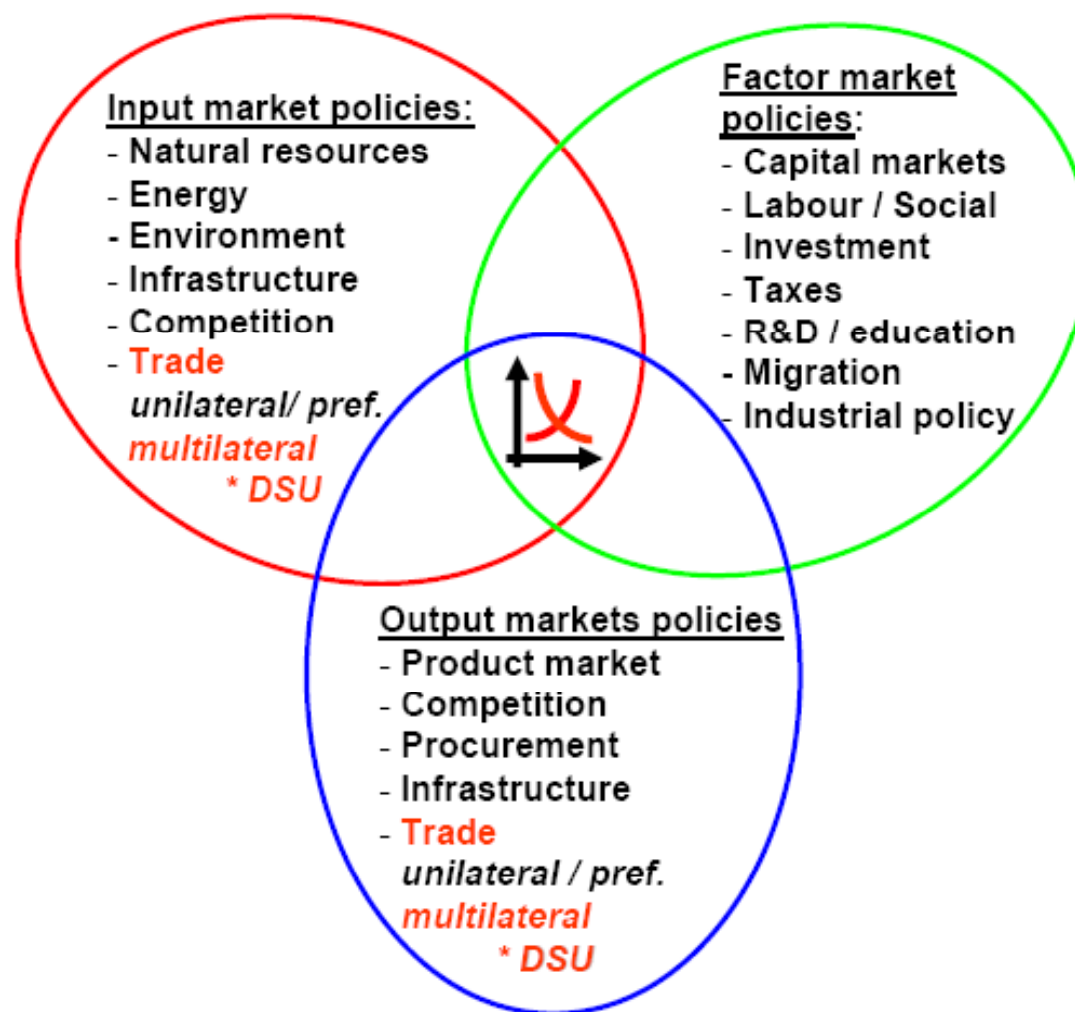
Long Term Perspective

- A larger share of disputes will concern emerging markets, both as complainants and as respondents.
- The major risk to the DSU is an excessive burden of politically delicate cases that involve non-economic aspects and that should rather be solved at the negotiating table.
- Safeguarding the legitimacy of the system will be paramount.
- A surge of „economic nationalism“ might have ambiguous effects on the DSU.
- There is no urgent need for changes to the DSU procedure. Negotiations under the „DSU Review“ will likely drag on and will only be concluded as part of a Doha (or other) package.

6. Conclusions

WTO Dispute Settlement in Steel Policy

- WTO dispute settlement is an important element in trade policy and it is the success story of the WTO.
- WTO dispute settlement will continue to play a key role in steel (trade) policy.



7. Further Information

WTO Dispute Settlement

- **WTO Homepage: <http://www.wto.org>**
(See in particular the „Dispute Settlement Gateway“ at:
http://www.wto.org/english/tratop_e/dispu_e/dispu_e.htm)
- **Introduction: Zimmermann, Thomas A. (2005): WTO Dispute Settlement at Ten – Evolution, Experiences and Evaluation; in: Aussenwirtschaft, Vol. 60, No. I, pp. 27-61**
(<http://www.zimmermann-thomas.de/publikationen/h05zds10.pdf>)
- **Documentary movie on the Steel case:**
„Steel War“ by David W. Syz; ecodocs;
(<http://www.ecodocs.ch>)

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Thank you for your attention.

This presentation as well as further publications by Thomas A. Zimmermann on WTO dispute settlement are available at the following websites (Sub-site „Publications“):

<http://www.zimmermann-thomas.ch>

<http://www.zimmermann-thomas.de>