4. APPROACH TO DSM: CASE STUDY OF KENYA AND BANGLADESH

4.1 In selecting cases to examine the utility of the DSM for the lesser-developed countries, two WTO members, namely, Kenya and Bangladesh have been identified. Kenya, one of the more active participants in the WTO processes from sub-Saharan Africa, has come close to approaching but has never actually initiated a dispute[25]. Bangladesh is the only LDC to have initiated a dispute in WTO[26].

4.2 In studying the experiences, the main limitation is the access to information and documents (if they exist). While the WTO Secretariat records, retains and makes available official documents as per the classification norms, submitted by the members or generated through its internal processes. The same is not the situation with the member Governments. Issues related to disputes are generally kept confidential. Therefore, for these two case studies, articles and analyses available in the public space have been relied upon.

Kenya: Never Quite Came to a Dispute

4.3 Kenya, one of Africa's larger economies, has a limited export base consisting of agricultural, horticultural, fishery and some manufactured/ industrial products. Tea and coffee exports are important export products for Kenya. Agriculture and related exports contribute 25% to the GDP of Kenya and constitutes 65% of its total exports. In terms of direction of trade, Kenya's main trading partner outside the East African region is EC, one of the most active WTO members in so far as DSM goes. Kenya is a member of two regional blocs in Africa – the East African Community (EAC) and the Common Market

[25] https://www.wto.org/english/tratop_e/dispu_e/dispu_maps_e.htm
[26] https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds306_e.htm

for Eastern and Southern Africa (COMESA). Kenya has significant trade under these two regional trade agreements. To depict where their trade interests are, Table 2, below shows the direction of Kenya's exports during the reference period:

Table 2 Kenya Trade Data

	1999	2000	2001	2002	2003	2004
Total (US$ million)	**1,650.9**	**1,571.0**	**1,520.2**	**1,400.4**	**2,551.1**	**2,033.9**
			(Per cent)			
America	2.7	3.0	3.5	1.8	2.3	2.9
Europe	35.0	35.2	38.1	30.3	30.2	38.7
EC(25)	33.9	34.1	36.7	29.2	28.2	36.4
United Kingdom	14.7	15.5	15.8	13.3	12.3	13.8
Netherlands	5.5	6.1	8.9	7.2	7.4	11.0
Germany	5.0	4.6	4.3	2.5	3.0	3.0
Asia	16.8	20.3	21.0	10.9	15.4	19.8
Middle East	4.7	5.4	5.8	3.0	3.6	4.0
United Arab Emirates	1.7	2.2	2.6	1.2	1.2	1.4
Yemen	1.0	1.0	1.1	0.5	1.3	1.3
East Asia	2.6	3.3	3.3	1.8	2.3	4.1
South Asia	9.5	11.6	11.9	6.1	9.4	11.6
Pakistan	7.8	8.3	7.4	2.4	5.1	7.1
India	1.5	1.1	1.9	2.5	1.4	2.5
Oceania	0.6	0.5	0.7	0.3	0.5	0.4
Africa	43.1	39.3	35.9	48.1	42.6	34.7
Sub-Saharan Africa	36.8	32.8	29.5	45.1	38.8	29.7
Uganda	16.1	14.4	10.5	21.5	15.7	10.0
United Republic of Tanzania	9.9	7.3	7.1	7.6	7.8	6.9
Sudan	2.0	1.6	1.7	1.7	2.3	2.3
Egypt	5.8	5.9	5.9	1.8	3.1	4.0

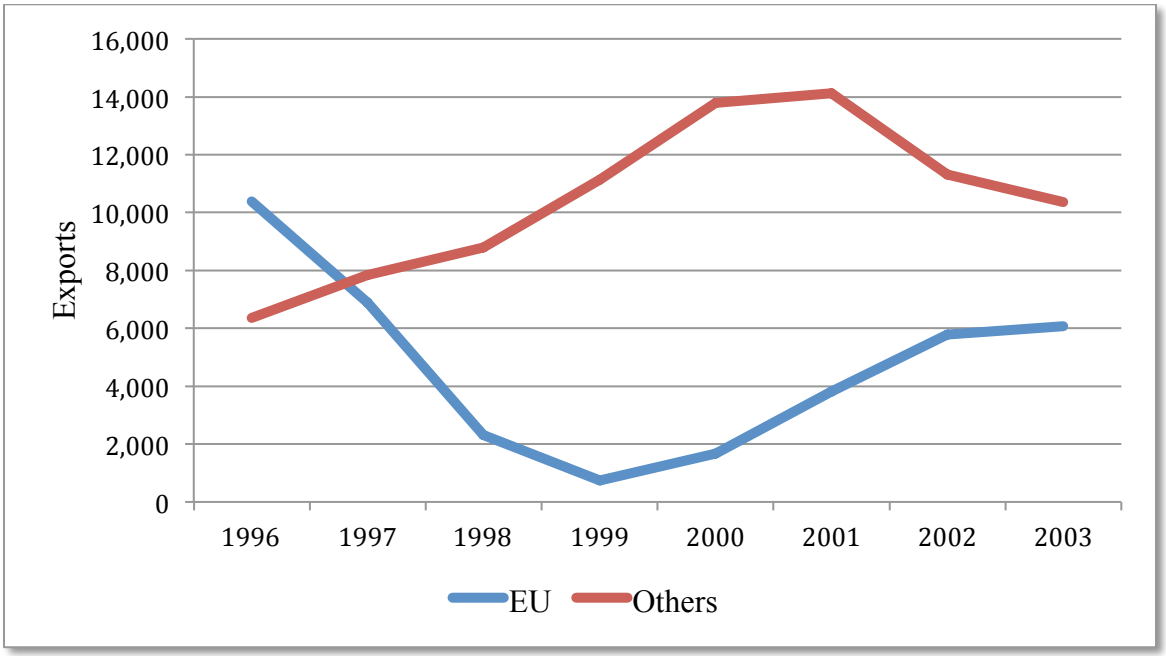
Source: WTO Secretariat estimates, based on UNSD, COMTRADE database SITC Rev.3 data

4.4 **Case of Nile Perch**: Amongst the fishery products, Kenya primarily exports processed 'Nile Perch'[27]. Nile Perch is a fish from the Lake Victoria. Lake Victoria comprises a total area of 26,600 square miles. It is the largest lake in Africa and the world's largest tropical lake, in addition to being the second-largest freshwater lake in the world. Along with Kenya - Tanzania and Uganda border Lake Victoria. Processed fish

[27] http://www.fao.org/fishery/facp/KEN/en

exports from Kenya commenced only in the early 1980s, with the establishment of the Nile perch processing industry in the Lake Victoria region. During the 1980's and 1990's the foreign exchange earnings from this industry increased tremendously - from US$ 257,143 in 1980 to about US$ 28,571,428 in 1999. Between the years 2000 and 2003, an average of about 16,831 tonnes of fish products were exported from Kenya per year, earning an average of about US$ 50,000,000 per annum. EC during this period was the

Figure 10 Exports of Nile Perch



Source: Data from Kenya Fish Processors and Exporters Association

largest market for Kenyan exporters. Figure 10 refers to the annual exports. Between 1990 and 1998, the EU implemented a series of requirements[28] governing standards for handling fish and fishery products throughout the supply chain. According to these requirements, inspection and formal approval by national designated authorities of all fish processing facilities was mandated to ensure their compliance with EU standards. These new procedures not only slowed the volumes and rate of fish exports to the EU at various

[28] EU Directives 91/493/EEC, 98/83/EC and 91/492/EEC

points between 1995 and 2000, but at times exports of Nile Perch from Kenya to EU markets were actually banned[29].

4.5 In November 1996, following the adoption of the EU standards, Spain and Italy placed a ban on Kenyan Nile Perch, claiming it contained *salmonellae*. No other EU member imposed the ban. It resulted in a drastic reduction in the volume of Kenyan Nile perch exports to the EU. It also resulted in a more than 13% reduction in foreign exchange earnings from fish products. In April 1997, EU imposed a fresh ban on fresh fish products from East Africa following an outbreak of cholera in the region[30]. The April 1997 requirement for salmonellae testing was at this point extended to all fish from the region to cover the possible contaminations of two other pathogens namely, *vibro cholerae* and *vibro parahaemoliticus*. In imposing the ban, the EU argued that Kenya lacked credible systems to safeguard fish and fish products from possible contamination[31]. However, the affected countries were not given an opportunity to put in place measures that would mitigate the losses arising from the ban and more importantly, they were not afforded time to comply with the new regulation. Also, by the time the ban came into effect, Kenya had already taken remedial, preventive and curative measures to mitigate any effects of the outbreak on human health. These measures included the adoption of a legal framework establishing a competent authority to inspect, certify and issue fish export licences; the development of a Code of Practice for the fish industry; upgrading fish testing equipment and laboratories; and training of laboratory staff. Most importantly, the EC did not, and possibly could not offer scientific evidence or data

[29] This is substantially discussed in S. Henson and W. Mitullah, Kenyan Exports of Nile Perch: Impact of Food Safety Standards on an Export-Oriented Supply Chain, World Bank, 2004.
[30] Through EC Directive 98/84/EC
[31] ibid.

proving the possibility of cholera-causing pathogens being transmitted to humans through fish. The apparent lack of scientific evidence, coupled with ensuing concerns and outcry from stakeholders in the fishery sector and the intervention of the World Health Organization, compelled EU to lift the ban on 30 June 1998.

4.6 In March 1999, i.e., a year later, media reports appeared suggesting that fishermen along Lake Victoria in Uganda were using chemicals - poison and pesticides for fishing. This indicated a possible risk that the processed fish could also contain the poison used and thereby be harmful for human consumption[32]. Acting on these reports, the Kenyan government placed a two-week ban on fishing in the lake. The newspaper reports, however, also found their way to Brussels where, in response, the EC placed an immediate ban[33] on imports of fresh fish from Lake Victoria. Again, no evidence of the existence of any levels of chemicals (poison) in fish from the lake was presented. The Kenyan government conducted a series of samplings and analyses of fish from the lake, but no pesticide or chemical residues were detected. Following visits by EU inspectors, Kenyan Nile perch received a clean bill of health; nonetheless the ban removal took almost 20 months.

4.7 This resulted in drastic reduction in exports to EU (see Figure 10). It may be noted that all this while, Kenyan exports of Nile perch to other countries, outside of the EU, kept increasing. In terms of cost, The total cost of these improvements was estimated at US$557,000 i.e., an average cost per plant of around US$40,000, an exorbitant amount for a number of smaller processing facilities, many of which were forced to close down.

---

[32] Sub-Saharan Africa, The Case of Kenya; David Ouma Ochieng and David S. Majanja in *Dispute Settlement at the WTO: The Developing Country Experience*, Edited by Gregory C. Shaffer and Ricardo Melendez-Ortiz, Cambridge University Press, 2010 (pp 310)

[33] Through Commission Decision 99/253/EC

4.8 The EU measures were imposed and notified in the SPS Committee of the WTO. Analysing the circumstances in which the EU measures were imposed along with their substantive content and effect on trading partners, the question arose as to WTO-consistency of these measures. Whether they were in effect non-tariff barriers to trade not meeting the rigours of the WTO regime. The scientific evidence, which formed the basis for the imposition of the regulations, remained questionable and, in the case of the cholera outbreak, was even proved to be wrong by the FAO[34]. Moreover, the failure of one exporter to meet the required standards implicated the exports of all Kenyan exporters, i.e., all exports from the same country was unjustifiable and is indeed challengeable under the DSM. However, Kenya never even sought formal consultations with the EU on this matter.

4.9 The precise reasons or even the deliberations within the Kenyan Government on this matter is not known, however, there was obvious reluctance within the Kenyan government to enforce its market access rights under the various WTO Agreements through the DSM. In an article[35] on this matter the authors conducted interviews with a broad range of stakeholders both from the affected private sector traders and government officials. The feeling amongst the stakeholders was that filing a formal complaint against the EU could hurt Kenya's economy and negatively impact the traders. Being a small exporter when compared to the total size of the EU market, they felt that EU was capable of sourcing fish and horticultural products from other sources, thereby potentially permanently blocking Kenyan fishes from its market. From a political perspective also

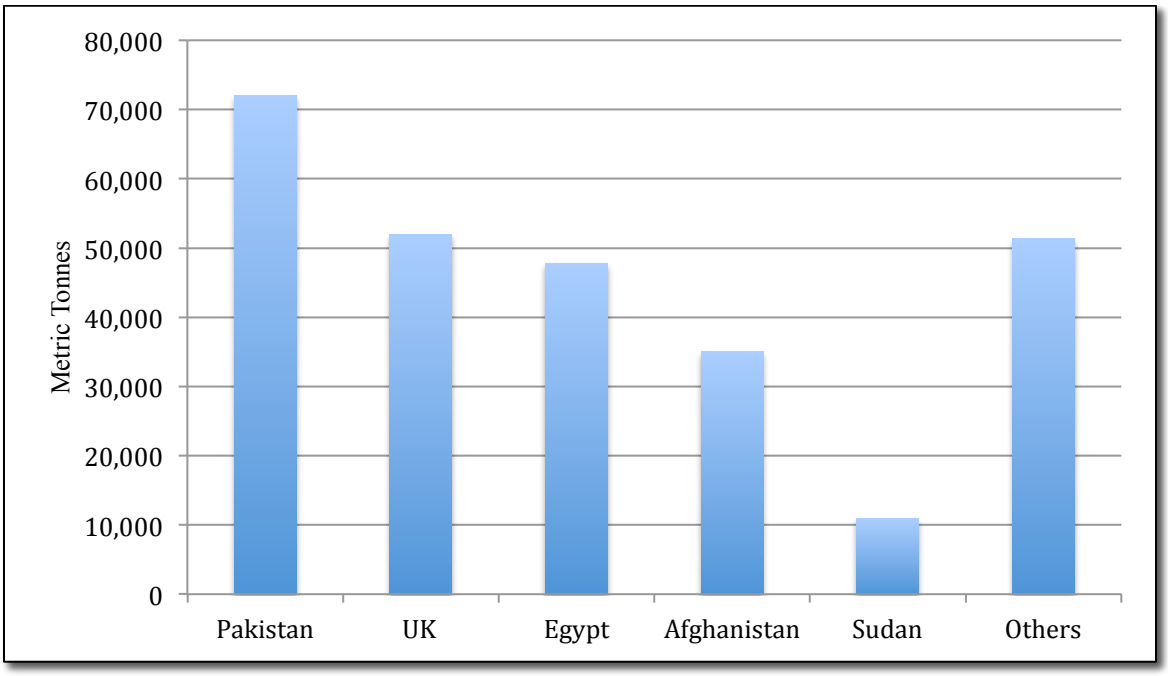
[34] http://www.fao.org/WAICENT/OIS/PRESS_NE/PRESSENG/1998/pren9821.htm
[35] Sub-Saharan Africa, The Case of Kenya; David Ouma Ochieng and David S. Majanja in *Dispute Settlement at the WTO: The Developing Country Experience*, Edited by Gregory C. Shaffer and Ricardo Melendez-Ortiz, Cambridge University Press, 2010. (pp 301-349)

the dispute was considered undesirable as the EU was a major donor and development partner to Kenya. It was financing a number of projects, which ranged from improvement of physical infrastructure through enabling free primary education to providing the government budgetary support. The desire to maintain current trade preferences from the EU and the desire to continue to receive donor assistance from the developed trading partner perhaps dissuaded Kenya from asserting its trade interest through the WTO DSM. Approaching any other adjudicatory mechanism for resolving trade disputes was also seen as presenting a risk of counterproductive results which would not balance the gains that could have been obtained successfully challenging the EU in WTO[36].

4.10 **Tea *vs.* Rice**: This was a curious trade issue involving Kenya and Pakistan, where both, LMI WTO members had reasons for resorting to the DSM but neither did. The facts of the case are that Kenya has grown to be one of the major Tea exporters in the world, with about 20% of the exports. Pakistan was the largest importer of Kenyan tea in 2003 (see Figure 11). At this time Pakistan was facing a significant negative balance of trade with Kenya, which was primarily importing rice from Pakistan. The Customs duty rate on rice in Kenya was 45%. This was also the time when the East African Community (EAC) was being negotiated and established along with Tanzania and Uganda. As part of the EAC negotiations, Uganda demanded that the common external tariff (CET) for the EAC region on rice should be 75%[37]. The intention was the growing production of rice in Uganda and their desire for a greater market in the EAC countries. This was agreed to and the Kenyan tariff on rice was increased to 75%.

[36] ibid.
[37] ibid.

Figure 11 Kenyan Tea Exports - Direction (2003)



Source: International Tea Committee

4.11 This action by Kenya was, on the face of it, challengeable in the WTO. The provisions allowing members to negotiate and establish a regional trade agreement (RTA) with special and differentiated treatment for the participants in the RTA enjoins upon them to ensure that the terms of trade for WTO members not parties to the RTA are not adversely affected. However, instead to resorting to the DSM, The government of Pakistan complained about the new duties on rice imports and demanded that Kenya reduce the tariff or it would face unspecified retaliatory measures. Almost immediately thereafter, Kenyan tea traders claimed that they experienced difficulties shipping tea to Karachi due to serious delays by Pakistan embassy officials in processing relevant export documents. Pakistan simply demanded that being a major importer of Kenyan tea, Kenya should reciprocate by providing favourable terms for Pakistani rice exports, even without any formal bilateral agreement in place. Arguably, Pakistan's action of delaying the

processing of tea export authorisation documents was also a violation of the latter's obligations under the WTO. However, Kenya did not file a formal WTO complaint or even initiate consultations. Instead, several rounds of bilateral negotiations were initiated to try and resolve the matter mutually. Nonetheless, Kenyan tea exporters continued to complain of reduced volumes of tea exports to Pakistan. As per the available information the matter was never resolved.

4.12 This case is strange in that both the countries are active WTO members. Kenya is a very vocal member from sub-Saharan Africa and has also hosted a recent WTO ministerial meeting. However, when it came to asserting their rights as conferred by the WTO, they preferred not to resolve it formally through the DSM but instead hold bilateral meetings at locations, including the WTO Geneva, to find solutions that could but be optimal. Cases for both the countries certainly had merit and a formal complaint could have resulted in a clear decisions. For Kenya the matter was very important, as Pakistan is their biggest market for tea. For Pakistan the export of rice to Kenya is important as Kenya is a gateway to the East African region and this is one of the few products that helps them improve their trade balance with Kenya. While it is not clear why Kenya did not approach the DSM in this specific case - lack of technical/ legal capacity required to mount a formal challenge and the financial implications of a WTO dispute have been generally quoted[38]. Unlike EU and the Nile perch issue, where there

[38] See proposals made in 'Text for the African Group Proposals on Dispute Settlement Understanding Negotiations', TN/DS/W/42 (24 January 2003); 'Negotiations on the Dispute Settlement Understanding', TN/DS/W/15 (25 September 2002); and 'The Committee on Trade and Development, Report to the General Council', TN/CTD/W/3/REV. 2 (26 July 2002), respectively. See further the responses of the African Group to questions by other members.

were other extraneous political reasons also attributable to the Kenyan decision, the same did not apply in this case of Pakistan and tea.

4.13 Regarding Pakistan, what we see in this case is that Pakistan, which has filed complaints in the WTO and therefore is technically competent to make and present its case, perhaps assumed their case as being strong moved straight to the retaliation stage of the dispute settlement procedure knowing fully well that Kenya would not go to the WTO DSM[39]. The informal squeeze on the tea imports was implemented in a way that Kenyans knew precisely why this was being done. The *quid pro quo* i.e., Rice *vs.* Tea was communicated to Kenya from the first instance itself. They identified an action of the kind that would compel quick response from Kenya. In a way this was a clever use of the DSM, without getting into the DSM and incurring the attendant costs of litigation. Thus, one can legitimately conjecture that the inability or lack of confidence on the part of a smaller WTO member can be a reason on the part of its trade partners to subject its trade to unfair action. Whatever the reason, this issue certainly highlights certain important limitations of the DSM, i.e., about its access to developing countries.

Bangladesh: Taking the Plunge

4.14 As mentioned earlier, Bangladesh is the only LDC member of the WTO to have initiated a formal complaint in the WTO. This case makes an interesting study as in taking the plunge to initiate the dispute; it took a lot of political courage, intellectual ability and a strong commitment to national interest on the part of Bangladesh. The case

[39] http://allafrica.com/stories/200503020884.html

relates to imposition of Anti-dumping duty by India on import of Lead-acid batteries manufactured in Bangladesh in 2004[40].

4.15 Bangladesh is geographically surrounded by India on three sides. One side is the Bay of Bengal and a small border with Myanmar. India is also one of Bangladesh's largest trading partners. However trade with India remains lopsided in India's favour (Table 3).

Table 3 Bangladesh-India Balance of Trade

Value in Mill. US$

FY	Export	Import	Balance
2001-2002	50.19	1018.90	(-) 968.71
2002-2003	83.61	1357.79	(-) 1274.18
2003-2004	89.32	2092.63	(-) 2003.31
2004-2005	143.66	2025.78	(-) 1882.12
2005-2006	241.96	1868.00	(-) 1626.04
2006-2007	289.42	2226.05	(-) 1936.63
2007-2008	358.08	3383.94	(-)3025.86
2008-2009	276.58	2843.00	(-) 2566.42
2009-2010	304.63	3213.70	(-) 2909.07
2010-2011	512.51	4569.20	(-) 4056.69
2011-2012	498.42	4755.00	(-) 4256.58

Source: Export Promotion Bureau, Bangaldesh.

4.16 While India remains the most cost effective source for its import requirements, Bangladesh with its limited exportable products invariably competes in the Indian

[40] https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds306_e.htm

markets with products reserved for the small and cottage sectors and in the markets of the Indian states surrounding Bangladesh. This coupled with limited tariff preferences, Bangladesh exporters finds it difficult to export in high volumes.

Table 4 Bangladesh Top 10 Export Products (2015)

1. Clothing (not knit or crochet): US$15.2 billion (43% of total exports)
2. Knit or crochet clothing: $15 billion (42.2%)
3. Other textiles, worn clothing: $1 billion (2.8%)
4. Footwear: $807 million (2.3%)
5. Paper yarn, woven fabric: $631.7 million (1.8%)
6. Fish: $569.9 million (1.6%)
7. Raw hides excluding furskins: $302.5 million (0.9%)
8. Headgear: $240.2 million (0.7%)
9. Leather, animal gut articles: $205.1 million (0.6%)
10. Tobacco: $119.3 million (0.3%)

Source: http://www.worldstopexports.com/bangladeshs-top-10-exports/

4.17 However, amongst the exporters and the government of in Bangladesh there is a persistent feeling that India deliberately restricts imports through use of a variety of nontariff barriers. The nontariff barriers supposedly used by India include, procedural delays, standards and technical regulations, and other such measures that make it difficult for the Bangladeshi products to find its way to the Indian market. In terms of export products, Bangladesh remains highly focused on readymade garments and some other textiles products (please see Table 4) of which India is also a competitive producer. Since, the export portfolio has not really diversified, and it will take time to be able to manufacture/ produce for the world markets, niche market segments in India does appear

to be the best bet for Bangladesh producers seeking to diversify into non-traditional products, such as engineering goods.

4.18 The dispute which was challenged by Bangladesh and the WTO[41], related to the imposition of anti-dumping duty by India on import of lead acid batteries from Bangladesh. Bangladesh had been given tariff concessions by India as an LDC member of SAARC, under the SAPTA preferences. Aided by these concessions a Bangladeshi company called Rahimafrooz Ltd. exported some small quantities of lead acid batteries. In the initial days of import, the Bangladeshi exporter got into a trademark related dispute with an Indian company called Exide Ltd., which was also manufacturing and selling lead acid batteries in India. However, the Indian Courts settled this case in favour of the Bangladeshi company. In 2001 two Indian companies, M/s Exide Ltd. and Amara Raja Batteries Ltd., filed an anti dumping complaint with the Directorate General of Anti-dumping (DGAD) against importers from four countries: China, Korea, Japan and Bangladesh. This complaint included the import of lead acid batteries from M/s Rahimafrooz. During the investigation Bangladesh, tried using both formal and informal channels to convince India not to proceed with the investigation or at least exempt the Bangladesh exporter, given the small volume of imports. Import from Bangladesh was less than 3% of the total import of lead acid batteries into India, during the period of investigation. Following the investigations, aspects of which were questioned by Bangladesh, fairly high anti-dumping duty was imposed by India. This in effect shut down the imports totally.

[41] ibid.

Table 5 Export of Lead-acid Batteries from Bangladesh to India

Year	1998-99	1999-00	2000-01	2001-02	2002-03
US$	54,181	1,060,905	1,281,240	0	0

Source: Bangladesh Battery Manufacturers Association (BABMA)

4.19 This case elicited wide media coverage in Bangladesh, where it was seen as India strong-arming it's smaller neighbour by imposing unjustified measures on its exports. The Bangladesh government was forced to examine all its options keeping in view the adverse public opinion in the country. The case was examined on all three aspects, i.e., the cost of litigation, the legal ability to amount a formal dispute, and the possible political fall-out in pursuing a dispute in the WTO against an obviously powerful neighbour[42].

4.20 Initially, the cost of pursuing a case at the WTO seemed daunting for what is a relatively small business enterprise. Rather than approach the WTO in Geneva, the Bangladesh exporter, M/s Rahimafrooz, preferred to challenge the Indian anti-dumping duty in the Customs, Central Excise and Gold Tribunal (CEGAT) and the High Court in India. However, it lost the case in both. In the meantime the Bangladesh government asked the Bangladesh Tariff Commission (BTC) to examine the matter in totality.

4.21 Before the anti-dumping duty on lead acid batteries by India, Bangladesh had already faced anti-dumping action in US and Brazil. In both of these cases they had not

[42] *How the DSU worked for Bangladesh: the first least developed country to bring a WTO claim* by Mohammad Ali Taslim in *Dispute Settlement at the WTO: The Developing Country Experience*, Edited by Gregory C. Shaffer and Ricardo Melendez-Ortiz, Cambridge University Press, 2010. (pp 230-247)

challenged the duty imposition given their lack of capacity to analyse whether these countries had imposed it on the basis of the laid down WTO agreements or not. The cost of challenging the duties in both US and Brazil would also have been prohibitive. Given proximity of Bangladesh to India, these limitations where not applicable. Further, the BTC had over time built adequate in-house capacity to at least examine India's action and come to a clear conclusion about the legality of the action, keeping in mind the various applicable WTO agreements/ instruments that applied to the case and those that gave Bangladesh special privileges as an LDC.

4.22 In terms of legal cost the amount estimated was US$1,50,000, which was high. The Bangladesh government roped in the Apex industry bodies into the dispute to try and defray the costs. However, it was found out that the ACWL subsidized the cost of legal support to LDC members of the WTO and they have to pay only 10% of the total cost. In this case that became US$15,000. Suddenly the cost factor became acceptable. The BTC in its examination reached the conclusion that there were major lacunae in the Indian investigation and imposition of the anti-dumping duty. They were able to show to the Government that there was a legally sound case that could be mounted in WTO[43].

4.23 With these two issues settled, the decision to actually go to the WTO or not hinged on the political considerations. While internal Bangladesh government documents is not available, the internal deliberations can be fathomed by the following *"In deciding to contest the Indian anti-dumping duties at the WTO, Bangladesh had to overcome a psychological barrier in its diplomatic approach. The BTC is only an advisory body; the implementation of the BTC's recommendations depends on the Ministry of Commerce. While the BTC was forthright in its recommendation to take the dispute to the WTO, the*

[43] ibid.

ministry officials were more circumspect. Bangladesh was in the midst of delicate trade negotiations with India, with a series of planned meetings with Indian officials. The ministry felt that their efforts might come to nothing if India was annoyed by Bangladesh's move to push a bilateral trade dispute to the multilateral ·arena. The Commerce Ministry also received some support from the Ministry of Foreign Affairs that such a course of action could have untoward diplomatic ramifications and hence, needed to be viewed cautiously in the broader perspective of the overall relations with India. On the other hand, the BTC argued that the dispute was essentially between two rival companies, and it was most unlikely that the outcome of the dispute would spill over to diplomatic relations. This view also received the support of the Permanent Mission of Bangladesh in Geneva that handles WTO matters. The Geneva Mission had earlier advised the ministry that such legal challenges between trading nations, rich and poor, large and small, are a common occurrence before the WTO dispute settlement body, and that these did not have a significant effect on the diplomatic relations between the disputants."[44] It is understood that the decision to take India to the DSM was finally cleared by the Prime Minister of Bangladesh.

4.24 After the dispute was filed with the WTO, the matter was resolved expeditiously. At the Consultation stage itself, India indicated its desire to settle the issue without going through the process of establishment of the Panel. India withdrew anti-dumping duty for a variety of reasons vide India's Customs Notification No. 01/2005 dated 4 January 2005

[44] *How the DSU worked for Bangladesh: the first least developed country to bring a WTO claim* by Mohammad Ali Taslim in *Dispute Settlement at the WTO: The Developing Country Experience*, Edited by Gregory C. Shaffer and Ricardo Melendez-Ortiz, Cambridge University Press, 2010. (pp 243)

and on 20 February 2006, the two parties informed the DSB of a mutually satisfactory solution to the matter raised by Bangladesh[45].

Table 6 Import of Lead Acid Battery from Bangladesh

Sl. No	Year	2011-12	2012-13	2013-14	2014-15	2015-16
1.	Values in US$ Million	4.21	0.97	5.76	3.43	1.95
2.	% Growth		-76.97	493.45	-40.39	-43.28
3.	Total Import of commodity	579.38	464.77	707.76	551.32	768.27
4.	% Growth		-19.78	52.28	-22.10	39.35
5.	% Share of Bangladesh	0.73	0.21	0.81	0.62	0.25

Source: Export Import Data Bank EIDB, Ministry of Commerce Govt. of India

4.25 The reasons perceived by the different parties included the reality that at the WTO in 2005/ 06 the Doha Round Negotiations were at a critical stage and India was at the centre-table as a representative of the developing countries, they didn't want to antagonise the LDC's at this critical juncture – a reverse political consideration. It is also well possible that India was convinced about the inherent weakness of its case and didn't want to go through with a legal scrutiny of its action. Whatever the reasons, the result for Bangladesh was worth the effort that went in.

[45] https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds306_e.htm