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Into the Void: The Inflation Reduction Act Panel Ruling and the Crisis of WTO Reform

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ABSTRACT

On 30 January 2026, a WTO Panel ruled that the domestic content bonus credits under the United States' Inflation Reduction Act violated the GATT 1994, the TRIMs Agreement, and the SCM Agreement. The United States appealed the ruling to a non-functional Appellate Body, sending it into a legal void. Read against the backdrop of WTO reform discussions that culminated at the Fourteenth Ministerial Conference in Yaoundé in March 2026, the ruling is far more than a bilateral dispute. It exposes the central contradictions in the reform agenda: the Members most vocally demanding new disciplines on others' subsidy practices have themselves demonstrated both the willingness to operate prohibited measures and the capacity to do so without meaningful consequence. This paper unpacks the Panel's findings, situates them within the post-MC14 reform process, and draws out the implications for developing countries. It argues that the Level Playing Field track must be reframed around compliance symmetry and policy space; that dispute settlement restoration must be decoupled from other reform tracks; that the African Group's call for reinstatement of non-actionable subsidy categories under Article 8 of the Agreement on Subsidies and Countervailing Measures (ASCM) is the most operationally precise developing country proposal currently on the table; and that the United States' parallel push to render Article XXI(b) fully self-judging threatens to create a zone of immunity for industrial policy that is structurally unavailable to the majority of developing countries.

KEYWORDS: WTO; WTO reform; level playing field; dispute settlement; Appellate Body; policy space

KEY MESSAGES

- **The DS623 Panel found the IRA's domestic content bonus credits to be prohibited local content subsidies. The U.S. did not contest the violations, lost on its sole defence under Article XX(a), and appealed the ruling to the Appellate Body it had spent seven years dismantling.**
- **A Member that operated a prohibited subsidy regime worth hundreds of billions of dollars and faces no compliance pressure cannot lead a reform agenda built around disciplining others' industrial policy.**
- **The EU's Industrial Accelerator Act replicates the same design logic as the IRA's domestic content requirements and has already attracted formal WTO challenges. Origin-based conditionality is becoming the dominant tool of the very Members most vocally demanding tighter disciplines on others.**
- **The U.S. push to render Article XXI(b) fully self-judging would create a zone of immunity available only to Members with the geopolitical weight to invoke security framing, leaving developing countries dependent on the DS623 design test as their only protection.**
- **The TRIMs prohibition on local content requirements is enforceable only against Members that lack the power to sustain non-compliance. A non-actionable category for developing country industrialisation measures, mirroring the expired ASCM Article 8, would begin to correct a de facto discrimination DS623 has made impossible to ignore.**

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I. Introduction

On 26 March 2024, China filed a complaint at the World Trade Organization (WTO) challenging key provisions of the United States' Inflation Reduction Act (IRA), signed into law by President Biden in August 2022.[1] The IRA included a suite of tax credits designed to accelerate the U.S. clean energy transition, but with a catch. To qualify for bonus credits under the Investment Tax Credit (ITC) and Production Tax Credit (PTC), renewable energy projects had to meet domestic content thresholds, requiring 100% U.S.-produced steel and iron for the Steel and Iron Requirement and a rising percentage (starting at 40% before 2025, increasing to 55% by 2027 and beyond for most projects) of U.S.-manufactured components for the Manufactured Products Requirement. China argued that these requirements amounted to prohibited local content subsidies and discriminated against imported goods in violation of core WTO obligations. The dispute attracted widespread attention, with 24 Members reserving their third-party rights to participate in the panel proceedings.[2] This dispute was a test case for whether WTO rules could accommodate the new wave of industrial policy currently sweeping across developed economies.

On 30 January 2026, a WTO Panel handed down its ruling. In *United States — Certain Tax Credits Under the Inflation Reduction Act* (DS623), the Panel found that the IRA's domestic content bonus credits violated Article III:4 of the General Agreement on Tariffs and Trade 1994 (GATT 1994), Article 2.1 of the Agreement on Trade-Related Investment Measures (TRIMs Agreement), and Articles 3.1(b) and 3.2 of the Agreement on Subsidies and Countervailing Measures (ASCM).[3] It also rejected the U.S. defence under Article XX(a)'s public morals exception, finding that the measures were "not designed or taken to protect public morals".[4] Less than a month later, on 23 February, the U.S. appealed the panel ruling to the non-functional Appellate Body, ironically the very institution the U.S. has blocked for seven years, sending the decision into a legal void.[5]

Read in isolation, this ruling may appear to be just another bilateral dispute. However, when read against the backdrop of the ongoing WTO reform discussions, it is something far more significant. It holds up a mirror to every major claim being made about fairness, rules, and industrial policy impacting the multilateral trading system today. This analysis unpacks what the Panel ruled, why it is relevant to the current

[1] China – Request for Consultations, United States – Certain Tax Credits Under the Inflation Reduction Act, WT/DS623/1, G/L/1526, G/TRIMS/D/47, G/SCM/D137/1 (28 March 2024).
[2] At its meeting on 23 September 2024, the DSB established a panel in United States – Certain Tax Credits Under the Inflation Reduction Act (DS623). The following Members reserved third-party rights: Argentina; Australia; Brazil; Canada; Colombia; Ecuador; the European Union; Hong Kong, China; Indonesia; Israel; Japan; Korea; Malaysia; Mexico; Norway; the Russian Federation; Singapore; Switzerland; Thailand; Türkiye; the United Arab Emirates; the United Kingdom; Venezuela; and Viet Nam. See Dispute Settlement Body, Annual Report (2024), WT/DSB/86 (3 December 2024), Section 5; Minutes of Meeting Held on 23 September 2024, WT/DSB/M/493 (25 October 2024); Request for Consultations by China, WT/DS623/1 (28 March 2024).
[3] WTO Panel Report, *United States — Certain Tax Credits Under the Inflation Reduction Act*, WT/DS623/R, circulated 30 January 2026.
[4] Panel Report, WT/DS623/R, para. 8.1
[5] Notification of an Appeal by the United States Under Article 16 of the DSU, United States – Certain Tax Credits Under the Inflation Reduction Act, WT/DS623/6 (24 February 2026) (appealing the Panel Report, WT/DS623/R and WT/DS623/R/Add.1).

WTO reform discussions, and what developing countries could take from the goings-on.

II. Panel's Ruling

As a preliminary matter, China's original complaint also challenged the IRA's Clean Vehicle Tax Credit. However, after the U.S. terminated that credit through the One Big Beautiful Bill Act (signed 4 July 2025, effective 30 September 2025), China withdrew those claims on 3 October 2025, stating that findings were no longer necessary. The Panel accordingly confined its findings to the ITC/PTC Domestic Content Bonus Credits.[6]

2.1. The U.S. Conceded the Violations

The most striking feature of DS623 is what the United States chose not to contest. It did not dispute that the IRA's domestic content bonus credits violated any of the provisions cited by China. The Panel recorded this plainly, noting that "the United States does not contest that the measures are inconsistent with the provisions referred to by China."[7] The entire defence rested on a single provision, namely the public morals exception under Article XX(a).

2.2. The Objective Assessment Standard

Previous panels had treated the first step of the Article XX(a) analysis with considerable deference to the invoking Member. In *Colombia — Measures Relating to the Importation of Textiles, Apparel and Footwear* (DS461), Colombia argued that a Member's own characterisation of its public morals objective should be accepted largely at face value, and that the absence of any reference to money laundering in the measure's text had no probative value because not all legal systems require explanatory recitals in legislative instruments. The Panel rejected this deference-based approach. It held that a panel must conduct an objective assessment of the measure's actual objective, grounded in the text of laws and regulations, legislative history, and all other evidence pertaining to the measure's design, architecture, and structure, and is not bound by the invoking Member's characterisation.[8] Applying that standard in DS461, the Panel found that Decree No. 456 bore no reference to money laundering in its text or legal bases, and that the only supporting statements Colombia produced post-dated the initiation of the dispute, fatally undermining their probative value.[9]

[6] Panel Report, WT/DS623/R, paras. 2.6–2.7.
[7] Panel Report, WT/DS623/R, para. 7.4. See also para. 3.3, where the Panel records that the United States did not contest inconsistency with the GATT 1994, the TRIMs Agreement, or the prohibition on local content subsidies under the SCM Agreement.
[8] Panel Report, *Colombia — Measures Relating to the Importation of Textiles, Apparel and Footwear*, WT/DS461/R, paras. 7.295–7.296 and 7.343. The Panel confirmed that while it must take into account the respondent's articulation of its objective, it is not bound by that characterisation and must make an objective and independent assessment taking into account the texts of statutes, legislative history, and other evidence regarding the structure and operation of the measure. This standard was drawn from Appellate Body Report, *EC — Seal Products*, WT/DS400/AB/R, para. 5.144, as cited in *Colombia — Textiles*, para. 7.296, fn. 459.
[9] Panel Report, *Colombia — Textiles*, WT/DS461/R, paras. 7.340, 7.343–7.344, and 7.356–7.363. The Panel noted that its analysis would begin with the text of the measure itself: neither Decree No. 456 nor its predecessor Decree No. 074 contained any

The DS623 Panel applied the same rigorous framework to the IRA. It drew a line between a measure's possible effect and its actual purpose, stating that the fact a measure may accidentally or hypothetically contribute to a moral objective does not mean it was taken for such an objective. It then examined the legislative record in detail, including remarks by Secretary of Commerce Gina Raimondo and Secretary of the Treasury Janet Yellen, as well as statements by members of the U.S. Senate, and found that none of them framed the IRA in moral terms.[10] The consistent framing was economic, centred on energy security, supply chain resilience, and domestic manufacturing. The Panel concluded that the direct evidence pertaining to the objectives of the measures contradicted the U.S. assertion that they were designed to protect public morals.[11] After DS623, any Member invoking Article XX(a) to defend industrial policy will most likely need a legislative record that speaks in genuinely moral terms.

2.3. Incentive Structure and Moral Purpose

The Panel's treatment of the Steel and Iron Requirement is particularly incisive. Because projects using non-U.S. steel or iron still qualified for the base ITC/PTC credit and were only denied the bonus, the Panel found that the measure's structure was inconsistent with a design aimed at protecting public morals. A government genuinely motivated by moral concern about particular inputs would not simultaneously make those same inputs eligible for a substantial baseline benefit.[12] More broadly, when a government designs an industrial subsidy as a financial incentive rather than as a prohibition or restriction on objectionable conduct, it structurally undermines any claim to moral purpose. This creates a trap for precisely the type of incentive-based green industrial strategies that most developed economies now wish to pursue.

The Panel went further, observing that the Manufactured Products Requirement allowed a percentage of components to be sourced from China, while the Steel and Iron Requirement excluded all non-U.S. sources, including countries the U.S. considers like-minded on the very practices it alleged to be morally objectionable.[13]

When pressed, the U.S. confirmed that the bonus credits relate to U.S. content and are therefore not designed to incentivize production in allied countries. These two points compound each other. The two requirements treat Chinese inputs differently from one another, negating any unified moral narrative, and the exclusion of Japan, Canada, and the European Union reveals that the measure's operative logic is domestic sourcing rather than moral condemnation of specific conduct. Brazil's third-party submission captured the second point, noting that the measure discriminated against a wide range

reference to money laundering. The presidential statement and Triple A Committee minutes submitted by Colombia as evidence of intent both post-dated the initiation of the dispute, materially reducing their probative value.

[10] Panel Report, WT/DS623/R, paras. 7.148–7.159. Exhibits US-118 (Secretary Raimondo), US-119 (Secretary Yellen), US-148 (Senator Casey).

[11] Panel Report, WT/DS623/R, para. 7.160.

[12] Panel Report, WT/DS623/R, paras. 7.164–7.171.

[13] Panel Report, WT/DS623/R, paras. 2.12–2.13, 7.190–7.220.

of trading partners despite the fact that those countries had not been found to engage in the alleged conduct.[14]

III. Who Can Afford to Break the Rules?

An important passage appears in both the Panel's main findings and the interim review. The Panel noted that China submitted evidence arguing that the U.S. itself has "maintained policies and practices that could themselves be characterized as non-market." This evidence included executive orders pursuing energy and artificial intelligence (AI) "dominance," the CHIPS and Science Act's aim to re-establish U.S. semiconductor leadership, renewable fuel volume mandates, and fossil fuel subsidies.[15]

When the U.S. claimed a broad, unitary public moral against unfair competition, the Panel found that this evidence "cast doubt on the existence of a broad and unitary public moral in the United States against any and all kinds of conduct that could be described as 'non-market'".[16] The implication is that if the U.S. itself engages in sector-targeting and market interventions, it becomes difficult to sustain its claim that such conduct offends a deeply held moral standard in U.S. society.

But the deeper irony lies in the scale. The IRA's energy provisions alone are estimated to cost between $936 billion (the Cato Institute's lower-bound for 2025 to 2034) and $1.97 trillion over ten years, with the Congressional Budget Office placing the figure at $825 billion in January 2025, and some projections reaching $4.67 trillion by 2050.[17] The U.S. can deploy subsidies at this scale because it issues the world's reserve currency, runs persistent fiscal deficits that global capital markets absorb, and has the institutional infrastructure to administer complex tax credit regimes. No developing country can replicate this. The practical ability to deploy trade-inconsistent industrial policy and absorb the consequences is a function of fiscal and monetary power, not a privilege available to all Members equally.

The balance of payments episode that unfolded in parallel to DS623 reinforces this point. In February 2026, the U.S. imposed, and in March 2026 notified, a 10 per cent ad valorem temporary import surcharge on virtually all goods, invoking Article XII of the GATT 1994 and presenting the measure as necessary to address a large and serious balance of payments deficit. However, the WTO Secretariat's factual background[18] depicts a persistent current account deficit and a deeply negative net international investment position that are nonetheless comfortably financed by sustained foreign

[14] Panel Report, WT/DS623/R, Annex C-2 (Brazil third-party submission).
[15] Panel Report, WT/DS623/R, paras. 7.129–7.130; Exhibits CHN-74 (Energy Dominance Council EO), CHN-84 (AI dominance EO), CHN-87, CHN-88, CHN-91 (CHIPS Act), CHN-78 (renewable fuel mandates), CHN-76 (fossil fuel subsidies).
[16] Panel Report, WT/DS623/R, paras. 7.129–7.130. The same passage is addressed at para. 6.41 of the interim review, in which the Panel responded to the U.S. request to reconsider this finding; the substantive conclusion was maintained.
[17] Cato Institute, The Budgetary Cost of the Inflation Reduction Act's Energy Subsidies, Policy Analysis No. 992 (March 2025), available at https://www.cato.org/policy-analysis/budgetary-cost-inflation-reduction-acts-energy-subsidies. The $936 billion and $1.97 trillion figures are Cato's lower- and upper-bound estimates for 2025 to 2034; the $4.67 trillion figure is Cato's upper-bound projection to 2050 using uncapped uptake assumptions. For the CBO estimate, see Reuters, "US clean energy tax subsidies to cost $825 billion over 10 years, CBO says" (17 January 2025), reporting on the Congressional Budget Office's January 2025 assessment of the IRA's clean energy tax provisions.
[18] See WTO documents WT/BOP/N/85, WT/BOP/G/25 and WT/BOP/S/19.

demand for U.S. assets, including a surplus in trade in services and sizeable royalty and licensing income, in a context of recovery from the sharp declines in 2025. The same reserve currency configuration that allows the U.S. to sustain IRA-scale subsidies is now invoked as the justification for a WTO-inconsistent balance of payments tariff, shifting adjustment costs outward instead of undertaking domestic macro-fiscal adjustment.

The formal equality of WTO obligations masks a radical inequity in the capacity to both deploy and sustain such policy. Ministers at MC14 acknowledged this in the Development breakout session recording that obligations must reflect each Member's actual capacity to distort trade, and that differentiated responsibilities are a condition of a credible reform outcome.[19] The challenge is converting this acknowledgement into something operational.

Roosevelt Institute scholar Todd Tucker identified another layer of irony. He noted that the Trump Administration could have argued that the IRA was key to conserving exhaustible natural resources or protecting human, animal, and plant life, defences available under Article XX(g) and XX(b) respectively, and that either would have been a more plausible basis for the defence. Instead, the U.S. legal team rested its case on the public morals exception. As Tucker put it, "the Trump administration preferred to play a predictably losing hand rather than risk robustly defending the Biden climate policies it has spent the last year and change trying to destroy."[20] The choice reveals something more fundamental. When a government can sustain a measure indefinitely through appealing into the void, the quality of the legal defence becomes secondary to the political calculus.

IV. The "Level Playing Field": Whose Framing Prevails?

The DS623 ruling lands squarely in the middle of the WTO reform debate, where "level playing field" has become a central organizing concept. The WTO reform process will consider it as one of four post-MC14 workstreams, alongside decision-making, development, and foundational issues. But what the phrase means depends entirely on who is using it, and DS623 makes that ambiguity impossible to gloss over.

4.1. The European Union and U.S. Framing

The U.S. tabled a submission on WTO Reform in December 2025, arguing that Members with economic systems incompatible with WTO principles have tilted the playing field away from free market economies.[21] It goes further, contending that the Most-Favoured Nation (MFN) principle is not just unsuitable for this era but actively prevents countries from optimizing their trade relationships in ways that would benefit

[19] WT/MIN(26)/39, Session 3 Summary (Development), p. 3.
[20] Tucker, T. N. (2026, February). The World Trade Organization Rules Against Biden's Clean Energy Law — Will It Even Matter? Roosevelt Institute. https://rooseveltinstitute.org/blog/the-world-trade-organization-rules-against-bidens-clean-energy-law-will-it-even-matter/
[21] United States. (15, December 2025). On WTO Reform, WT/GC/W/984.

each party. The European Union (EU) January 2026 submission follows in the same direction, building its reform vision around three pillars of predictability, fairness, and flexibility. Under fairness, it targets "excessive levels of subsidisation, non-commercial behaviour of State-Owned Enterprises (SOEs), including non-transparent support provided through SOEs, unlimited guarantees, and measures that artificially keep struggling firms afloat and cause overcapacity."[22] It calls for strengthened disciplines, proposes that notified measures should enjoy better treatment than non-notified measures, and advocates reviewing the ASCM and developing new disciplines beyond its current scope. The two submissions differ in tone, the U.S. more confrontational and the EU more institutionally framed, but they converge on the same target.

4.2. The Ruling Exposes the Contradictions

DS623 fundamentally challenges this framing. The U.S., the most vocal advocate for disciplining non-market practices, was itself found to be operating a prohibited subsidy regime. Its measure was a domestic content requirement, one of the trade-distortive instruments disciplined in the WTO, worth hundreds of billions of dollars. The U.S. reform submission itself insists that "[t]he United States would expect Members that preach about the importance of the rules-based multilateral trading system to be disciplined by those rules, not exempt from them."[23] The Panel applied this logic back to the United States. Brazil, in the General Council, drew out the full implication. It stated that "a dysfunctional dispute settlement mechanism is the most important systemic issue to be fixed in this Organization" and that a pragmatic first step "should start with a political commitment to refrain from appealing into the void," which "would be the right thing to do if Members really are committed to a rules-based multilateral trading system."[24]

The EU's position is similarly exposed. Before the Panel, the EU argued that purely economic policy objectives fall outside the scope of the public morals exception under Article XX(a), and urged the Panel to draw a clear boundary around the exception's reach by first assessing whether the interests invoked by the U.S. qualify as 'public morals' at all before proceeding to the necessity step.[25] That position is defensible in the context of DS623, but it sits uncomfortably alongside the EU's own trade-related instruments. The Green Deal Industrial Plan, the Net-Zero Industry Act, and Carbon Border Adjustment Mechanism (CBAM) each pursue objectives that blend climate policy with industrial competitiveness, and that blend is what the Panel's design test is calibrated to scrutinize.

The design test, as elaborated by the Panel, requires more than a government's assertion that a measure serves a particular purpose. A defending Member must demonstrate, through the text of legislation, its legislative history, and the actual

[22] European Union. (21 January 2026). EU Submission on WTO Reform, WT/GC/W/986, p. 4.
[23] United States, WT/GC/W/984, para. 2.5.
[24] WTO General Council. (2025, December 16–17). *Minutes of Meeting*. WT/GC/M/222, para. 2.268. Statement of Brazil.
[25] Panel Report, WT/DS623/R and Add.1, 30 January 2026, Annex C-4 (Integrated Executive Summary of the Arguments of the European Union), para. 7.101 and fn. 172. The EU submitted that public morals under Article XX(a) cannot be reduced to purely economic concerns, and that the Panel should assess whether the interests invoked by the United States fall within the concept at all before proceeding to the necessity step.

design, structure, and expected operation of the measure, that the objective it claims was genuinely what the measure was adopted to pursue.[26] Applied to CBAM, which would most likely be expected to be defended under Article XX(b) or XX(g) rather than XX(a), the same logic holds.[27] It would not be sufficient for the EU to assert that CBAM was adopted to prevent carbon leakage and protect climate investment. Its design and legislative record would need to bear that out, and the measure's differential treatment of trading partners based on their carbon pricing regimes would face the same kind of structural scrutiny that led to the rejection of the U.S. domestic content bonus credits.

The pattern is already repeating itself. In March 2026, the European Commission published a proposal for an Industrial Accelerator Act (IAA) establishing "Made in EU" origin requirements for public support and conditions requiring foreign investors to source at least 30% of inputs from within the EU. China raised the measure at the TRIMs Committee in April 2026, arguing that Articles 12 and 18 of the draft regulation violate Article 2 of the TRIMs Agreement by conditioning public support and investment access on EU-origin requirements, which is the structural equivalent of the local content bonus credits the DS623 Panel found to be prohibited.[28] The EU's response was that the IAA "has been designed to respect the Union's international commitments." The panel in DS623 heard something similar from Washington. Whether the IAA ultimately survives WTO scrutiny is not the point. What matters is that the same design logic, namely origin-based conditionality attached to public benefits, is being reproduced at scale by the actor most actively advocating for tighter disciplines on others' subsidy practices.

These developments point to a deeper structural problem that the reform process will have to consider. If origin-based conditionality attached to public benefits is now a central tool of industrial policy among the world's largest economies, the question is not whether such tools violate WTO rules. DS623 confirmed that they do. The question is whether rules that prohibit these tools for all Members in formal terms, but are only enforceable against those who lack the fiscal depth to sustain non-compliance or the litigation capacity to appeal into the void, can be said to apply equally in practice. The TRIMs Agreement, as currently written and enforced, contributes to this asymmetry. A targeted reform that creates a non-actionable category for local content measures deployed by developing countries in pursuit of industrialisation and climate-compatible industrial policy, mirroring the logic of the expired Article 8 of the ASCM, would begin to correct it. Without that correction, the prohibition on local content

[26] DS623/R, paras. 7.82, 7.87, 7.95 and 7.98. The Panel drew on the text of statutes, legislative history, stated intentions of lawmakers, and the design, structure, and expected operation of the measure as the evidentiary framework for the design step under Article XX(a).

[27] The applicable exception for CBAM would most likely be Article XX(b) of the GATT 1994 (necessary to protect human, animal or plant life or health) or Article XX(g) (relating to the conservation of exhaustible natural resources). The design test, as articulated in DS623 at para. 7.82, draws on a line of jurisprudence that applies across Article XX subparagraphs. See Panel Report, *US – Tariff Measures on Certain Goods from China*, WT/DS543/R, paras. 7.134–7.137, which the DS623 Panel cited in contrasting its own more demanding objective assessment with DS543's deliberately less structured holistic approach; and Panel Report, *EU – Palm Oil and Oil Palm Crop-Based Biofuels (Indonesia)*, WT/DS593/R and Add.1, adopted 24 February 2025, for the most recent elaboration of the design test in the context of Article XX(b).

[28] China, Statement at the TRIMs Committee Meeting of 21 April 2026, G/TRIMS/M/59, paras. 11–16. The measure was also raised as a new trade concern at the Council for Trade in Goods on 20 May 2026, G/C/W/895, Agenda Item 12.2.7.

requirements functions as a constraint on developing country industrial policy while operating largely as a paper rule for those with the power to ignore it.

Five of the ten third parties in DS623, namely Brazil, Canada, the EU, Japan, and Singapore, specifically engaged with the Article XX(a) design test as a question of systemic significance rather than a matter limited to the facts of the dispute.[29] That pattern of engagement suggests that certain Members with their own contested industrial policy programmes had a stake in how the Panel articulated the standard. The EU's submission, focused on constraining the exception's reach for economic objectives, reflects a position that is consistent with the EU's immediate litigation interest in DS623 but also consistent with a longer-term interest in how far Article XX can be stretched to cover measures that the EU itself may need to defend.[30] Whether that convergence was strategic cannot be stated as fact, but it is a reading the record does not contradict.

4.3. What Developing Countries Mean by "Fairness"

Developing country submissions present a fundamentally different conception. Where the EU and U.S. use "level playing field" to mean disciplining state intervention, developing countries use it to mean correcting historical asymmetries and creating space for industrialization. The pre-MC14 WTO Reform Facilitator's own report acknowledged this, observing that "some have both the fiscal space and the political willingness to intervene and they do so" while "others, mainly but not exclusively developing Members, even if politically willing, lack the fiscal capacity to compete at this level," concluding that "[t]his asymmetry should be acknowledged."[31] The DS623 ruling is a concrete illustration of this point. The U.S. deployed a subsidy programme worth at least an estimated USD 936 billion over ten years, lost a WTO dispute over it, and faces no material compliance pressure.

The African Group's series of submissions, tabled since March 2023, constitutes the most detailed developing country reform agenda currently before the WTO.[32] Its foundational policy space submission observes that "Members have found themselves constrained from pursuing their development and industrialization objectives by rules which do not allow them to use the very policy tools that other advanced Members have used to industrialize."[33] The 2024 update sharpens this point further, noting that developed economies "are deploying various state-backed instruments to sustain competitiveness and create high-paying jobs in these new sectors" and that "[t]he

[29] WT/DS623/R/Add.1, Annex C-2 (Brazil), Annex C-3 (Canada), Annex C-4 (European Union), Annex C-6 (Japan), Annex C-9 (Singapore). These five submissions addressed the Article XX(a) design standard as a matter with implications beyond the specific measures at issue. The remaining five third parties, Argentina, Indonesia, Norway, the Russian Federation, and Switzerland, addressed the dispute on narrower or different grounds.

[30] WT/DS623/R/Add.1, Annex C-4 (European Union). The EU's submission focused on two propositions: first, that the Panel should determine at the outset whether the interests invoked by the United States qualify as public morals at all; and second, that measures directed at purely economic objectives should not fall within Article XX(a). Both propositions have direct relevance to the EU's own regulatory exposure, given that the Net-Zero Industry Act and CBAM blend environmental and competitiveness rationales in ways that could attract similar challenges.

[31] Facilitator on WTO Reform, report circulated as document JOB/GC/483 (12 December 2025).

[32] African Group submissions: WT/GC/W/868 (1 March 2023); WT/GC/W/880 (May 2023); WT/GC/W/896 (July 2023); WT/GC/W/936 (May 2024); WT/GC/W/971 (31 October 2025).

[33] African Group, Policy Space for Industrial Development - A Case for Rebalancing Trade Rules to Promote Industrialization, WT/GC/W/868 (1 March 2023), para. 11.

consistency of some of these measures with WTO obligations appears questionable," while developing countries "are constrained by the rules in undertaking similar measures to support their economic resilience."[34] The Maputo Ministerial Declaration, adopted by African Union Trade Ministers on 26 February 2026, formalizes this position at the political level, cautioning "against the use of level playing field narratives to justify constraints on legitimate development policies of developing countries."[35] It also rejects reform approaches that condition access to Special and Differential Treatment on "arbitrary differentiation, income thresholds or self-designation approaches that ignore structural vulnerabilities and development realities."[36]

Colombia captured the broader frustration at the December 2025 General Council, stating that "[s]pecial and differential treatment was not free - we paid for it" and that explaining "that one of the MC14 outcomes was to limit special and differential treatment would be difficult, while doing nothing about the exemptions that really are transforming global trade."[37] The Least Developed Country (LDC) Group noted that "recent trade turbulence exposed the vulnerability of the LDCs to the global power dynamics" and calls for "an impartial and independent adjudication system within WTO" to ensure "the safety and security for the Members especially LDCs and developing countries in international trade."[38] For LDCs, the Level Playing Field (LPF) track is not primarily about disciplines on industrial subsidies. It is about whether the dispute settlement system can actually protect smaller Members when the rules are broken by larger ones.

Brazil, at the same session, offered a diagnosis of the problem, noting a "narrowing of ambition" on the LPF track and arguing that development-related reform "must be systemic," extending beyond one aspect of industrial policy.[39] China argues that "fairness could not be judged by one-sided narratives nor measured by market share or trade balance."[40] DS623 lends both arguments their most concrete illustration to date. The question is not whether the rules apply. It is whether reform will strengthen disciplines symmetrically, or primarily target the forms of state intervention less characteristic of the economies currently driving the reform agenda.

4.4. The Subsidy Race and the Limits of the LPF Track

The IRA triggered a global subsidy race. The EU responded with the Green Deal Industrial Plan and Net-Zero Industry Act, while Japan, South Korea, Canada, and India announced competing packages.[41] An OECD report warns that this race “risks stifling the development of green industry in developing countries in favour of high-income countries and large emerging market economies with deep pockets and sufficient

[34] African Group, Policy Space for Industrial Development, WT/GC/W/936 (May 2024).
[35] African Union Trade Ministers, Maputo Ministerial Declaration (26 February 2026), Section II.C (Level Playing Field).
[36] Ibid., Section II.B (Development and Special and Differential Treatment).
[37] Colombia, statement at the General Council, WT/GC/M/222 (December 2025), para. 2.239.
[38] LDC Group, LDC Group Priorities at the World Trade Organization, WT/GC/W/979 (4 December 2025), section 1.5.
[39] Brazil, statement at the General Council, WT/GC/M/222 (December 2025), para. 2.266.
[40] China, China's Position Paper on WTO Reform Under the Current Circumstances, WT/GC/W/989 (18 February 2026), para. 4.
[41] European Commission, Communication on the Green Deal Industrial Plan for the Net-Zero Age, COM(2023) 62 final (1 February 2023); Regulation (EU) 2024/1735 of the European Parliament and of the Council on establishing a framework of measures for strengthening Europe's net-zero technology manufacturing ecosystem (Net-Zero Industry Act), OJ L, 28 June 2024.

access to capital markets."[42] DS623 found the IRA's domestic content requirements illegal, but the broader phenomenon of competitive subsidization lies largely beyond the reach of existing WTO rules.[43] The ASCM prohibits local content subsidies but is silent on the aggregate scale of subsidization and its distortive effects on Members who cannot compete at that scale.[44]

The African Group's call for reinstating Article 8 of the ASCM, which provided a non-actionable category for subsidies directed at research, regional development, and environmental adaptation before it expired in 2000, is grounded in this gap.[45] The Group's submission notes that "the expiry of the carve-outs contained in Article 8 of the ASCM which allowed for non-actionable subsidies of up to 75 percent of industrial research or no more than 20 percent of costs of adaptation to new environmental requirements unfortunately stifles this ambition to industrialise, whilst also placing existing exports at risk of noncompliance with increasingly stringent sustainability standards."[46] It adds that the "thresholds in the expired carve-outs are too conservative for the climate change response necessary to decarbonise," suggesting that reinstatement would need to be accompanied by higher applicable ceilings.[47]

Without that space, developing countries face a choice that the reform process has yet to honestly confront. They risk being disciplined for subsidies they cannot afford or excluded from the industries they cannot otherwise enter.[48]

V. The Dispute Settlement Paradox

On 23 February 2026, the U.S. notified its intention to appeal the DS623 ruling.[49] On the next day, at the DSB meeting, it blocked for the 95th consecutive time a proposal by 130 countries to fill all seven Appellate Body vacancies. The ruling now joins a growing list of panel reports appealed into the void.

The scale of this problem is staggering. To date, more than thirty panel rulings (including DS623) have been appealed into the void.[50] What began as a U.S. strategy to block adverse rulings has metastasized into a systemic norm of non-compliance available to any Member willing to accept the reputational cost. Developing countries have accounted for more than half of these appeals.[51] The practice has spread beyond the

[42] OECD, 'Green Industrial Policies for the Net-Zero Transition', OECD Environment Working Paper (October 2024).
[43] Panel Report, WT/DS623/R, paras. 7.13, 7.24, 7.53.
[44] ASCM, Article 3.1(b). See also Brazil, Third-Party Submission, WT/DS623/R, Annex C-2, para. 9 ('only two categories of subsidies are prohibited outright under the SCM Agreement, namely those subsidies that are conditioned on export performance or on import substitution').
[45] African Group, Submission on WTO Reform, WT/GC/W/936 (May 2024); African Group, Submission on WTO Reform, WT/GC/W/971 (31 October 2025). Article 8 of the ASCM lapsed on 1 January 2000 pursuant to Article 31 of the ASCM.
[46] African Group, WT/GC/W/971, para. 2.10.
[47] African Group, WT/GC/W/971, para. 2.11.
[48] African Group, WT/GC/W/971, para. 1.4 ('Reform must not be used as a vehicle to entrench asymmetries or introduce new forms of exclusion'); ACP Group, Fundamentals for WTO Reform, WT/GC/W/975 (28 November 2025), para. 7.1.
[49] United States, Notification of Appeal under Article 16 DSU, *United States – Certain Tax Credits Under the Inflation Reduction Act*, WT/DS623/6 (24 February 2026).
[50] https://www.wto.org/english/tratop_e/dispu_e/appellate_body_e.htm
[51] Includes appeals by China, Dominican Republic, India, Indonesia, Korea, Morocco, Pakistan, Panama, Thailand, and Türkiye.

U.S., transforming the Appellate Body vacuum from an American problem into a structural feature of the system.[52]

This is profoundly relevant to the current reform debate. Following the MC14, the Chair of the General Council launched a new phase of work on WTO reform, indicating that discussions on dispute settlement reform would continue under the auspices of the Dispute Settlement Body (DSB), in parallel with a facilitator-led process on the reform tracks.[53] But the EU's own reform submission prior to MC14 reveals a calculated hedge. It conditions dispute settlement discussions on progress in WTO reform "when the conditions are right," effectively linking restoration of the Appellate Body to outcomes in the level playing field and decision-making tracks where it holds the stronger hand.[54]

For developing countries, this sequencing is unacceptable. The African Group explicitly calls for "restoring a two-tier, fully functioning dispute settlement system accessible to all Members."[55] The LDC Group stresses the same, noting that dispute settlement reform "remains a top priority" and calling for "resuming a fully and well-functioning DS system accessible to all Members in the shortest possible time."[56]

Yet even Appellate Body restoration would not resolve the deeper enforcement asymmetry. Under the DSU, the remedy for non-compliance is the suspension of concessions, that is, retaliation.[57] But developing countries with small domestic markets cannot impose sufficient economic or political losses on larger Members to generate compliance pressure.[58] As the African Group has documented, "the means provided for enforcement of findings and recommendations (trade retaliation) are skewed against and disadvantage" smaller Members.[59] China is one of the very few developing countries with sufficient market power to wield such retaliation. For most WTO Members, winning a dispute against the U.S. or EU is a pyrrhic victory in the sense that you get a legal finding that you are unable to enforce.

DS623 crystallizes the problem. When a developing country (or any Member) challenges a developed country's measure and wins at the Panel stage, the respondent can appeal into the void and continue operating the offending measure indefinitely. Even if the ruling were adopted, most complainants lack the retaliatory capacity to compel compliance. This is the ultimate asymmetry, and it systematically advantages those countries who can absorb both the legal cost of non-compliance and the economic cost of retaliation. Dispute settlement restoration is not a reward for good behaviour on other reform tracks. It is a precondition for any reform to be meaningful.

[52] See Kristen Hopewell, "Unravelling of the trade legal order: enforcement, defection and the crisis of the WTO dispute settlement system," International Affairs, vol. 101, no. 3 (2025).
[53] See Chair of the General Council, "WTO Reform – Statement by H.E. Ms Clare Kelly (New Zealand) – Informal Heads of Delegation Meeting, 26 June 2026," JOB/GC/REFORM/1; and "WTO Reform – Appointment of Facilitators and Invitation to Kick-Off Sessions," communication of 29 June 2026.
[54] European Union, EU Submission on WTO Reform, WT/GC/W/986 (21 January 2026), Annex, Work Programme, fn. 5.
[55] African Group, WTO Reform, WT/GC/W/971 (31 October 2025), para. 1.5.
[56] LDC Group, LDC Group Priorities at the World Trade Organization, WT/GC/W/979 (4 December 2025), section 1.5.
[57] Understanding on Rules and Procedures Governing the Settlement of Disputes, Articles 22.2 and 22.6.
[58] Hunter Nottage, "Developing Countries in the WTO Dispute Settlement System," GEG Working Paper 2009/47, at 8–9.
[59] African Group, "Negotiations on the Dispute Settlement Understanding – Proposal by the African Group," TN/DS/W/15 (25 September 2002), para. 2 (third bullet).

It is ironic that, by the time of the DS623 ruling, the U.S. had blocked appointments to the Appellate Body at ninety-five consecutive DSB meetings, and in February 2026, notified its intention to appeal DS623 to the very institution it had spent seven years dismantling. The appeal was not filed to obtain a substantive review; it was filed in the knowledge that no such review is currently possible. A Member that engineered the conditions of its own impunity and then invoked them against an adverse ruling cannot claim to be defending the rules-based system. It is, however, demonstrating that the system's enforcement architecture can be captured by those with the power to do so.

VI. Implications for Every Member's Industrial Policy

The DS623 ruling sends an unmistakable signal to every WTO Member pursuing local content requirements, domestic sourcing preferences, or origin-based subsidy structures for climate, digital, or industrial purposes. The Panel's emphasis on legislative intent and the evidentiary paper trail creates a high bar. It is not enough that a measure could serve a public objective. Lawmakers must demonstrably have intended it to do so.[60] DS623 is also the first instance in which the U.S. itself invoked Article XX(a) as a respondent and lost on it. The same exception the U.S. has consistently argued should be interpreted narrowly when invoked by others was applied back to Washington, and the Panel found the measure wanting on the very design standard the U.S. had previously resisted relaxing. It is worth noting that the Panel did not independently examine the TRIMs violation. Because the U.S. did not contest inconsistency with Article 2.1 of the TRIMs Agreement, the Panel recorded it by agreement of the parties and the finding carries no independent jurisprudential weight on the Agreement's scope or application.

An added detail emerges from the pleadings. The U.S. invoked Article XXI(b), the national security exception, but only as a defence to China's claims concerning the FEOC exclusionary rule under the Clean Vehicle Tax Credit, not as an alternative defence on the ITC/PTC Domestic Content Bonus Credits that are the core of the ruling.[61] That question became moot when China withdrew its Clean Vehicle Credit claims entirely after the One Big Beautiful Bill Act terminated that credit in September 2025.[62] The Panel therefore never had occasion to reach Article XXI(b) at all.[63]

The episode nonetheless carries analytical weight for the reform debate. Had the FEOC claims been pursued, the Panel would have faced the deeply contested question of whether security exceptions are self-judging and therefore non-justiciable. Recent panels in *Russia — Traffic in Transit* and *US — Steel and Aluminium* have found that Article XXI(b) is not entirely self-judging and that panels retain jurisdiction to review whether

[60] WTO Panel Report, DS623, paras. 7.90–7.98 (the Panel required 'an objective assessment grounded in the text of laws and regulations, legislative history, stated intentions of lawmakers, and surrounding circumstances').
[61] Switzerland (third-party submission), Integrated Executive Summary of the Arguments of Switzerland, WT/DS623/R/Add.1, Annex C-10, para. 8 (30 January 2026): "the United States has invoked Article XXI(b) of the GATT 1994 as a defence only with respect to China's claims related to the FEOC exclusionary rule."
[62] WTO Panel Report, DS623, paras. 2.3–2.4
[63] WTO Panel Report, DS623, para. 7.203 and section 7.5 generally: the Panel's entire analysis is confined to the Article XX(a) defence; no findings were made under Article XXI(b).

its minimum conditions are satisfied, a position the U.S. has consistently resisted.[64] The withdrawal of the Clean Vehicle Credit claims spared both parties that confrontation. But as Members increasingly frame industrial and digital policy measures in security terms, the question of how far Article XXI(b) extends in a clean energy context remains open and will almost certainly return at the Panel stage in a future dispute.

Public Citizen's Melinda St. Louis captured the systemic tension, arguing that "the existing rules of the global economy are not fit for purpose to address the urgent crises facing our world — from catastrophic climate change to growing authoritarianism."[65] Yet the ruling's logic applies the most stringent scrutiny precisely to the policy tools governments are reaching for. This is the central paradox the reform debate must reckon with.

VII. Recommendations

7.1. Challenge the Facilitator's conception of the LPF track

The recommencement of WTO reform discussions following MC14 should not simply treat the LPF track as a discipline-building exercise without asking whether existing rules are being applied symmetrically or enforced at all. That conception should be rejected. The most immediate level playing field problem is the non-enforcement of existing rules by the Members most vocally demanding reform. DS623 makes this impossible to ignore. Ministers at MC14 underscored that implementation and enforcement of existing rules is the central challenge, and that the absence of accountability has already produced a de facto reshaping of rulemaking outside the WTO's ambit.[66] A Member that operated a prohibited subsidy regime worth hundreds of billions of dollars, lost a dispute over it, and faces no material compliance pressure cannot anchor a reform agenda around disciplining others. Developing countries should insist that the LPF track's terms of reference be revised to include a compliance symmetry dimension.

Equally, the track cannot proceed without an honest account of policy space. The Minister-Facilitators' Takeaways document records that some Members have the fiscal capacity to intervene and do so, while others do not. That asymmetry has yet to be translated meaningfully in the framing of the WTO reform discussions. Any work agreed on the LPF track that does not simultaneously expand the policy space available to developing countries will entrench rather than correct the imbalance DS623 has laid bare. At MC14, at least one delegation put on record that meaningful progress on the LPF track requires the work plan to reflect the full range of asymmetries at stake, extending well beyond industrial subsidies. That intervention should be the starting

[64] United States, Reflections from the United States on the Handling of Disputes Involving Essential Security Measures, JOB/DSB/10 (6 December 2024), p. 2: "a WTO adjudicator shall not review a Member's invocation of GATT 1994 Article XXI(b) … and shall instead limit its report to the DSB to note that invocation." See also Panel Report, *Russia — Measures Concerning Traffic in Transit*, WT/DS512/R, adopted 26 April 2019 (finding Article XXI(b) subject to minimum conditions reviewable by a panel).
[65] St. Louis, M. (January 2026). *WTO Ruling Against Biden-Era Clean Energy Policies Undermines Climate Action and the Multilateral System* [Press statement]. Public Citizen, Global Trade Watch.
[66] WTO, Takeaway Document: Breakout Sessions on WTO Reform, WT/MIN(26)/39, 2 April 2026, Session 1 Summary, p. 2.

point for developing country engagement in the post-MC14 process, rather than a footnote to it.[67]

7.2. Dispute settlement restoration must be decoupled from the LPF track

Developing countries should firmly resist some Members' sequencing logic, which conditions Appellate Body restoration and overall Dispute Settlement reform on progress in areas where developed countries hold stronger cards. DS623 illustrates why a functioning two-tier system is not a reward for good behaviour on other tracks but a precondition for any negotiated outcome to be enforceable. Restoration should be treated as a priority stand-alone and urgent deliverable, independent of progress on other reform workstreams.[68]

A prior question that the reform process has so far avoided also deserves engagement in the DSB. The right of appeal under Article 16.4 of the DSU was designed to operate within a functioning two-tier system. It was not designed to be invoked by a Member whose sustained blocking of Appellate Body appointments rendered that system inoperable. Whether the exercise of a procedural right under those circumstances is consistent with the good faith obligation in Article 3.10 of the DSU is a question with a credible legal foundation.

7.3. Caution against accepting LPF disciplines that lack a substantive development carve-out

The Maputo Ministerial Declaration's language cautioning against the use of level playing field narratives to justify constraints on legitimate development policies should be translated into concrete negotiating positions.[69] Any proposed new disciplines on subsidies or SOEs in the LPF track should be conditioned on a prior agreement that S&DT carve-outs are substantive and not merely transitional. The asymmetry acknowledged by the Facilitator's own report should be reflected in differentiated obligations rather than differentiated timeframes for the same obligations.

7.4. Article 8 ASCM reinstatement as the policy space anchor for the LPF track

The African Group's call for reinstatement of non-actionable subsidy categories under ASCM Article 8, advanced in a series of substantive submissions since 2023, is the most operationally precise proposal developing countries have tabled on the LPF track. The case does not rest on DS623. It rests on the structural reality that Article 8 expired in 2000 before its potential had been realised, that the thresholds it contained were calibrated for a pre-climate-crisis world, and that developing countries have since been the primary targets of countervailing measures by developed economies pursuing the very same green industrial policy objectives.

[67] See, for example, Minister-Facilitators' Takeaways, Session summaries on WTO reform (including Level Playing Field Issues), WT/MIN(26)/39.
[68] See Chair of the General Council, "WTO Reform – Statement by H.E. Ms Clare Kelly," JOB/GC/REFORM/1; and Heads of Delegation statement, JOB/GC/REFORM/4, noting Members' emphasis on dispute settlement restoration as a core objective.
[69] African Union Trade Ministers, Maputo Ministerial Declaration (26 February 2026), Section II.C (Level Playing Field).

DS623 nonetheless sharpens the argument. A Member that could not defend its own clean energy subsidy regime under any existing provision of the ASCM has demonstrated precisely why the current rules are inadequate for climate-compatible industrial policy. That inadequacy falls hardest on developing countries that lack the fiscal depth and legal capacity to sustain their programmes through prolonged dispute settlement. Developing countries should explicitly table reinstatement with updated thresholds explicitly in the LPF track work programme and resist any framing that treats this as a peripheral development request rather than a structural correction to rules that DS623 has shown to be unfit for purpose.

7.5. Develop a legislative drafting protocol for measures intended to invoke Article XX

The Panel's design test as articulated in DS623 creates a predictable evidentiary framework. Any Member intending to defend a future industrial or climate measure under Article XX must ensure that its legislative record speaks in the terms of the exception it intends to invoke. Developing countries, which often have less institutional capacity to manage complex legislative records, should build this into their domestic drafting processes now. A practical guide on legislative design for WTO-defensible industrial policy, developed in coordination with developing country delegations, would fill a gap that no existing technical assistance programme currently addresses.

The urgency of this recommendation is compounded by a parallel U.S. strategy that predates DS623. Across three communications spanning December 2024 to March 2026, the U.S. has proposed that Article XXI(b) be interpreted as fully self-judging, such that no WTO adjudicator may review a Member's invocation of the essential security exception and panels would be limited to noting the invocation without further analysis.[70] Unlike the WTO reform proposals to alter the consensus rule or ease plurilateral incorporation, this proposal does not require unanimous acceptance. It is reachable by a three-fourths majority under Article IX:2 of the Marrakesh Agreement, making it a procedurally viable move rather than a remote aspiration.[71] The practical effect, if adopted, would be to create a zone of immunity for any measure a Member frames in security terms, with no evidentiary bar of the kind DS623 imposed under Article XX(a). The Members with the institutional and geopolitical weight to invoke Article XXI in an industrial policy context are not developing countries. The appropriate response for developing countries is therefore twofold. In the short term, the legislative drafting discipline this recommendation outlines remains necessary because the DS623 design test is the operative standard and developing countries must be able to meet it. But the correct systemic response is not to replicate the exception-shopping strategy of larger Members. It is to actively oppose an authoritative interpretation of

[70] United States, Reflections on the Handling of Disputes Involving Essential Security Measures, JOB/DSB/10 (6 December 2024); United States, Communication to the General Council, On WTO Reform, WT/GC/W/984 (15 December 2025), Section 3.6; United States, Further Perspectives on WTO Reform, WT/GC/W/998 (20 March 2026), Section 6. The March 2026 paper specifically calls for an authoritative interpretation of Article XXI of the GATT 1994, Article XIV bis of the GATS, and Article 73 of the TRIPS Agreement to that effect.

[71] Vahini Naidu, *Reform Proposals on Decision-Making at the WTO: Mapping the Consensus Debate in the Light of the Marrakesh Agreement*, South Centre Analytical Note (1 July 2026), Section III (mapping table) and Section 5.4. The Note identifies the U.S. essential security interpretation proposal as a use of Article IX:2 that does not engage Article X:2's all-Member acceptance requirement, distinguishing it from the plurilateral and consensus-reform proposals that are doubly entrenched.

Article XXI that would entrench a two-tier system in which security framing functions as a privilege of power rather than a genuine legal standard available to all.

The recommendations in this paper are addressed to the WTO system as it currently stands, and they are worth fighting for. But three structural realities will outlast any negotiated outcome. The capacity to deploy industrial policy at IRA-scale rests on reserve-currency status and deep fiscal capacity, which remain concentrated in a small subset of Members. Dynamic comparative advantages in the sectors developing countries most need to enter are increasingly promoted through state-directed channels that are organised to fall outside WTO disciplines, so restoring non-actionable policy space will yield far less room to manoeuvre than its proponents anticipate. And even if national security exceptions under Article XXI(b) are interpreted broadly, that flexibility will in practice shield only those Members with sufficient geopolitical weight to sustain a security-based narrative, leaving the DS623-style design test as the operative standard for everyone else.

The South Centre is the intergovernmental organization of developing countries that helps developing countries to combine their efforts and expertise to promote their common interests in the international arena. The South Centre was established by an Intergovernmental Agreement which came into force on 31 July 1995. Its headquarters is in Geneva, Switzerland.

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