SOME THOUGHTS ON A FEASIBLE OPERATION OF MONETARY COMPENSATION AS AN ALTERNATIVE TO CURRENT REMEDIES IN THE WTO DISPUTE SETTLEMENT

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ABSTRACT

Despite the great success of WTO dispute settlement, a close examination of current WTO remedies has been continued to point out a variety of potential shortcomings such as ineffective compliance, inadequate remedies and inequitable consequences of retaliation. Among various proposals, monetary or financial compensation has been one of the controversial ideas to address those existing problems. Although monetary compensation has not been ruled out under Article 22.1 of the DSU, this article tries to argue that mandatory, instead of voluntary, monetary compensation could possibly be one of the ways to address the issue of non-compliance and to provide a tentative contour for incorporating mandatory compensation into current system of WTO remedies. Part II will briefly survey the problems with current rules of WTO remedies based on the findings of several arbitrational cases under Article 22.6 of the DSU and the US-Copyright case, the first dispute temporarily solved by arranging monetary compensation between the U.S. and EC under Article 22 of the DSU. Part III specifies the common concerns that may go against the idea of monetary compensation in the WTO. Part IV illustrates how monetary compensation could operate as an

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alternative to current remedies in the WTO dispute settlement through the examination of the purposes and key components of monetary compensation and its relationship with trade compensation and retaliation. Part V is the concluding remark.

KEYWORDS: *Monetary/Financial compensation, WTO dispute settlement, Dispute Settlement Understanding (DSU), WTO remedies, trade compensation, suspension of concessions or other obligations (trade retaliation)*