

Detailed Presentation of the Dispute Settlement System

OBJECTIVE

- Get acquainted with the WTO's procedure for resolving trade quarrels under the Dispute Settlement Understanding.

I. INTRODUCTION

The Marrakesh Agreement Establishing the WTO (the "Agreement Establishing the WTO") has four Annexes. Annexes 1, 2, and 3, which include the "Multilateral Trade Agreements", apply to all the WTO Members.

In this Module, we will introduce Annexes 2 and 3 to the Agreement Establishing the WTO, which set out the rules relating to two of the main functions of the WTO:

- **Annex 2** - [Understanding on Rules and Procedures Governing the Settlement of Disputes](#) (The DSU); and,
- **Annex 3** - [Trade Policy Review Mechanism](#) (TPRM).

[Annex 2](#) relates to the function of providing a forum for the settlement of disputes between WTO Members. The dispute settlement system plays an important role in the multilateral trading system (MTS) by enforcing and clarifying the legal obligations contained in the WTO "covered Agreements" (that is, most importantly, the Agreement Establishing the WTO, and the Agreements in Annexes 1 and 2). [Annex 3](#) provides for regular surveillance of national trade policies through the TPRM.

The first part of the Module will provide you with an overview of the main functions and objectives of the WTO dispute settlement system, its main features and the process for settling trade disputes among WTO Members as set forth in the DSU. The second part will explain the functioning of the TPRM, including its main objectives and the collective review process undertaken on the trade policies of all Members.

Why is the WTO dispute settlement system important?

The best international agreement is not worth very much if its obligations cannot be enforced when one of the signatories fails to comply with such obligations. An effective mechanism to settle disputes thus increases the practical value of the commitments the signatories undertake in an international agreement. The fact that the WTO Members established the current dispute settlement system during the Uruguay Round of multilateral trade negotiations underscores the high importance they attach to compliance by all Members with their obligations under the WTO Agreement.

Settling disputes in a timely and structured manner is important. It helps to prevent the detrimental effects of unresolved international trade conflicts and to mitigate the imbalances between stronger and weaker players by having their disputes settled on the basis of rules rather than having power determine the outcome. Most people consider the WTO dispute settlement system to be one of the major results of the Uruguay Round. After the entry into force of the WTO Agreement in 1995, the dispute settlement system soon gained practical importance as Members frequently resorted to using it.

II. IN BRIEF: DISPUTE SETTLEMENT AND SURVEILLANCE IN THE WTO

The WTO provides a forum for the settlement of trade disputes between WTO Members. The WTO dispute settlement system consists one of the major outcomes of the Uruguay Round. After the entry into force of the WTO Agreements in 1995, the dispute settlement system soon gained practical importance as Members frequently resorted to using it. The mechanism is aimed at providing a fast, efficient and rule-oriented system to resolve trade disputes. By doing so, it provides security and predictability to the Members and more particularly private economic operators. Furthermore, it helps to mitigate the imbalances between developed countries and small economies by having disputes settled on the basis of rules rather than having economic power determining the outcome.

Only WTO Member governments have the right to participate in the dispute settlement system. They can act either as "complainant" or "respondent" (enjoy full rights) or "third parties" (enjoy some rights). The possibility of being third parties offers important advantages, especially to developing Members who can gain experience from such participation, without getting directly involved as a party. Other entities (e.g. non-governmental organizations or associations of producers) have no legal right to participate in WTO dispute settlement proceedings, although adjudicating bodies may deem appropriate to accept or consider their submissions in certain cases and after consulting to the parties.

The WTO dispute settlement system applies to all disputes brought under the covered Agreements, that is, the majority of the WTO Agreements (including the GATT 1994 and the other multilateral Agreements on trade in goods, the GATS and the TRIPS Agreement). Many matters brought before the DSB include alleged violations of more than one covered Agreement. **One of the main features of the system is the institutional support provided by the Dispute Settlement Body (DSB) - the General Council in another guise - conformed by the whole Membership and in charge of overseeing the entire process of disputes.** In addition, the WTO Secretariat provides assistance in the dispute settlement process. The Dispute Settlement Understanding (DSU) sets out the rules and procedure to be followed in resolving disputes. It also contains some provisions on special and differential treatment for developing country Members. The dispute settlement process includes the following main stages: consultations, adjudication (panel and, in case of appeal, Appellate Body) and implementation.

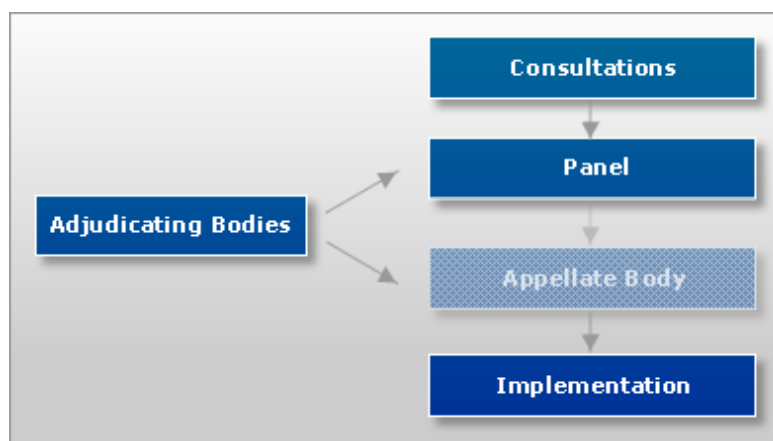


Figure 1: Main Stages of the WTO Dispute Settlement Process

The first stage of formal dispute settlement is consultations. The objective is to allow parties to obtain satisfactory adjustment of the matter before resorting to adjudication. This is a mandatory stage and any mutually agreed solution reached during this stage must be notified to the DSB.

If the consultations have failed to settle the dispute, the complaining party may request the establishment of a panel – like a first instance court - to resolve the dispute. Panels consist normally of three experts selected for each specific dispute, who examine the legal and factual aspects of the case and submit a report to the DSB. The panel's report includes its conclusions as to whether the challenge measure is consistent or not with the WTO covered Agreements. Either party may appeal the report of the panel but only with respect to issues of law. Unlike the panel, the Appellate Body – composed of seven members- is a permanent body. The Appellate Body may uphold, modify or reverse the legal findings and conclusions of the panel. Approximately, the total time of a dispute is 12 months (up to the panel stage) and one year and three months if there is an appeal. The reports of the panels and Appellate Body are binding after being adopted by the DSB. They are adopted by the DSB quasi-automatically through negative consensus, that is, unless all WTO Members decide against their adoption.

The last stage concerns the implementation of the reports after their adoption by the DSB, which maintains surveillance of the implementation of the rulings until their compliance. If immediate compliance is not possible, the respondent has a reasonable period of time to comply. The DSU provides to the complainant remedies applicable in case of non-compliance with the reports: trade compensation (almost never used); and, suspension of concessions. The suspension of concessions is a remedy of last resort, which has been used only on a few occasions. These remedies are only temporary since the main objective of the system is to secure the withdrawal of the measure found inconsistent with the WTO covered Agreements.

The DSU is currently under process of review, which includes diverse matters such as the extension of third parties' rights, the provisions on special and differential treatment for developing countries, the transparency of the proceedings and remedies available in case of non-compliance. The review of the DSU is not tied to the other negotiations mandated by the Doha Declaration (it is not part of the single undertaking).

III. THE DISPUTE SETTLEMENT SYSTEM (DSS)

IN BRIEF

The WTO's procedure for resolving trade quarrels under the Dispute Settlement Understanding is vital for enforcing the rules and therefore for ensuring that trade flows smoothly.

Typically, a dispute arises when a WTO Member adopts a trade policy measure that one or more Members consider to be inconsistent with the obligations set out in the WTO Agreements. Any Member that feels aggrieved is entitled to have resort to the WTO dispute settlement system to challenge such a measure.

The WTO dispute settlement system constitutes one of the major outcomes of the Uruguay Round. The system underscores the rule of law and makes the trading system more secure and predictable. By doing so, it provides a mechanism through which WTO Members can ensure that their rights under the WTO Agreements can be enforced.

The dispute settlement procedure is based on clearly-defined rules, including a timeframe for completing a case. First rulings are made by a panel. Appeals based on points of law are possible. The rulings of panels and the Appellate Body have to be adopted by WTO Members through the Dispute Settlement Body (DSB). However, the point is not to pass judgement. The priority is to settle disputes through mutually agreed solutions if possible.

The rules and procedures of the WTO dispute settlement system are embodied in the DSU, which applies to all WTO Members.

III.A. OBJECTIVES AND FUNCTIONS OF THE WTO DISPUTE SETTLEMENT SYSTEM

The main functions and objectives of the WTO dispute settlement system can be summarized as follows:

PROVIDE SECURITY AND PREDICTABILITY TO THE MTS

The WTO dispute settlement system is a central element in providing security and predictability to the MTS ([Article 3.2](#) of the DSU). Member states, and, more particularly private economic operators, need to have a stable and predictable framework of rules for their commercial activities. The WTO dispute settlement system aims to provide a fast, efficient, dependable, and rule-oriented system to resolve disputes about the application of the provisions of the WTO covered Agreements.

PRESERVE THE RIGHTS AND OBLIGATIONS OF WTO MEMBERS

The dispute settlement system provides a mechanism through which WTO Members can ensure that their rights under the WTO covered Agreements can be enforced. The rulings of the bodies involved are intended to reflect and **correctly apply the rights and obligations as they are set out in the WTO Agreements.**

They must not add to or diminish the rights and obligations provided in the WTO Agreement (Articles [3.2](#) and [19.2](#) of the DSU, see also [US – Certain EC products](#), Appellate Body Report, para. 92).

CLARIFY PROVISIONS OF THE WTO AGREEMENTS THROUGH INTERPRETATION

The precise scope of the rights and obligations contained in the WTO Agreement is not always evident from a mere reading of the legal texts. Legal provisions are often drafted in general terms so as to cover a multitude of individual cases. In addition, legal provisions in international agreements often lack clarity because they are compromise formulations resulting from multilateral negotiations. Thus, in most cases, the answer can be found only after interpreting the provision at issue. The dispute settlement system is intended to **clarify the provisions of the WTO covered Agreements in accordance with customary rules of interpretation of public international law** (Article [3.2](#) of the DSU, see also [US – Certain EC products](#), Appellate Body Report, para. 92). These customary rules of interpretation will be explained later on.

Members have the right to seek authoritative interpretation of provisions of a WTO Agreement through decision-making. [Article IX:2](#) of the Agreement Establishing the WTO provides that the Ministerial Conference and the General Council have the exclusive authority to adopt interpretations of the WTO Agreement. While the interpretations of the Ministerial Conference and the General Council are applicable to all WTO Members, the interpretation of the adjudicating bodies under the DSU are legally binding only upon the parties in respect of the subject matter of a specific dispute.

FAVOUR MUTUALLY AGREED SOLUTIONS

Although the dispute settlement system is intended to uphold the rights of aggrieved Members and to clarify the scope of the rights and obligations, the primary objective of the system is not to make rulings. **A solution mutually acceptable to the parties to a dispute, and consistent with the WTO Agreements is clearly to be preferred.** Adjudication is to be used only when the parties cannot work out a mutually agreed solution. To promote mutually agreed solutions, the DSU requires formal consultations as the first stage of any dispute. Even when the case has progressed to the stage of adjudication, a bilateral settlement always remains possible (Articles [3.7](#) and [11](#) of the DSU).

DETAILED PROCEDURES AND PROMPT SETTLEMENT OF DISPUTES

The DSU emphasizes that the prompt settlement of disputes is essential to the effective functioning of the WTO and for the maintenance of a proper balance between the Members' rights and obligations ([Article 3.3](#) of the DSU). Accordingly, **the DSU sets out in considerable detail the procedures and corresponding deadlines to be followed in resolving disputes.** As you will see, **if a case is adjudicated, it should normally take no more than nine months for a panel ruling and no more than 12 months if the case is appealed** ([Article 20](#) of the DSU). The DSU provides shorter timeframes in cases of urgency (e.g. perishable goods). Furthermore, some provisions allow a party to move forward with the case even in the absence of agreement of the other party (e.g. [Article 6.1](#) of the DSU).

SECURE WITHDRAWAL OF INCONSISTENT MEASURES

If it is not possible for Members to reach a mutually agreed solution, **the first objective of the dispute settlement system is to secure the withdrawal of measures which have been found to be inconsistent with a provision of the WTO covered Agreements** ([Article 3.7](#) of the DSU).

III.B. MAIN FEATURES OF THE WTO DISPUTE SETTLEMENT MECHANISM

A procedure for settling disputes existed under Articles XXII and XXIII of the old General Agreement on Tariffs and Trade (GATT) 1947. Several of the principles and practices that evolved in this dispute settlement mechanism were, over the years, codified in decisions and understandings of the CONTRACTING PARTIES of GATT 1947.

The DSU, as the legal basis of the WTO dispute settlement system, adheres to the principles for the management of disputes developed under the GATT 1947 ([Article 3.1](#) of the DSU). However, **the DSU modifies and elaborates upon the old GATT rules and procedures on dispute settlement**. Compared to the old GATT dispute settlement procedure, **the DSU introduced several innovative features and improvements which make the WTO dispute settlement system quasi-judicial in nature**. First, there is **assured access to these procedures**. Second, there is near **automaticity in decision-making** in certain key issues related to settlement of individual disputes (for example, panel establishment and adoption of panel and Appellate Body reports by the DSB). Third, the DSU provides an integrated framework, that is, **a single general dispute mechanism** which applies to disputes arising under all covered Agreements with only minor variations. Fourth, the DSU provides a **detailed procedure** for each stage of the dispute, with specific timeframes and deadlines. Finally, there is provision for **appellate review**.

III.B.1. WHO CAN PARTICIPATE IN A WTO DISPUTE ?

Only WTO Member governments have the right to participate in the dispute settlement system. The WTO Secretariat, WTO observer countries, other international organizations, and regional or local governments are **NOT** entitled to initiate dispute settlement proceedings in the WTO.

a. PARTIES (COMPLAINANT VS. RESPONDENT)

The DSU sometimes refers to the Member government bringing a dispute as the "complaining party" or the "complainant". The terms "responding party" or "respondent" are commonly used to refer to the Member government whose measure is challenged by the complainant in the dispute. A dispute may also involve more than one WTO Member as complainant ([Article 9](#) of the DSU).

b. THIRD PARTIES

A WTO Member that is neither the complainant nor the respondent may be interested in the matter of a dispute. Such Member may participate as a "third party". They **enjoy some rights**, such as to have the opportunity to be heard by the panel and to make written submissions, provided that they have a "substantial

interest" in the matter before a panel and they have notified such interest to the DSB ([Article 10.2](#) of the DSU). If a third party considers that a measure, already the subject of a panel, nullifies or impairs benefits accruing to it under any covered Agreement, it may initiate a dispute settlement procedure on its own merit. The participation as "third party" offers important advantages, especially to developing country Members, who can gain valuable experience in the dispute settlement proceedings without getting directly involved as a party.

Are private parties or non governmental organizations allowed to participate in a WTO dispute?

Since only WTO Member governments can bring disputes, it follows that **private individuals or companies do NOT have direct access to the dispute settlement system, even if they may often be the ones (as exporters or importers) most directly and adversely affected by the measures allegedly violating the WTO Agreement. The same applies to non governmental organizations (NGOs) with a general interest in the matter in dispute.**

As we will see later on, **Article 13** of the DSU provides panels the right to seek information and technical advice from any individuals or bodies which they deem appropriate. According to WTO jurisprudence, Article 13 permits panels to accept and consider or reject unsolicited amicus curiae briefs (see **US – Shrimp**, Appellate Body Report, paras. 105 - 110; and, **EC – Sardines**, Appellate Body Report, paras. 165 & 167). The term "amicus curiae briefs" refers to submissions received from entities which are not a party or third party of a WTO dispute. These submissions may come from non governmental organizations, including industry associations or university professors.

There are divergent views among Members on whether non governmental organizations may play a role in WTO dispute settlement proceedings, including on whether WTO adjudicating bodies may accept and consider amicus curiae briefs.

To date, only a few panels have in fact made use of their discretion to accept and consider unsolicited amicus curiae briefs, after consulting with the parties. Since panels have no obligation to consider these briefs, amicus curiae have no legal right to participate before a panel. However, such briefs may be considered when presented attached to the submission of a party (complainant or respondent) (see e.g. Appellate Body Report, **US - Shrimp**, paras. 89 - 110).

III.B.2. WAYS OF SETTLING DISPUTES UNDER THE DISPUTE SETTLEMENT UNDERSTANDING (DSU)

The WTO dispute settlement mechanism provides for two main ways of resolving disputes: 1. **Mutually Agreed Solution**; or, 2. **Adjudication**.

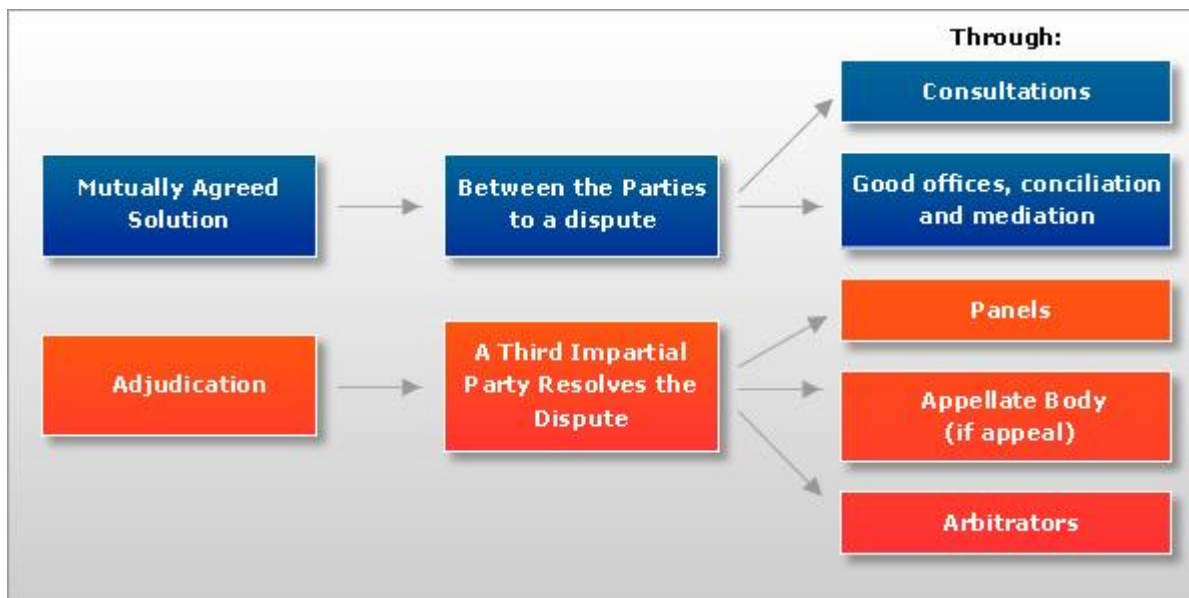


Figure 2: Two Ways of Resolving Disputes under the DSU

With the exception of arbitration, **adjudication cannot be requested until consultations have taken place or unsuccessful attempts to consult have been made**. The DSU contains rules and procedures to be followed by WTO Members for both consultations and adjudications.

a. MUTUALLY-AGREED SOLUTIONS

As mentioned above, the DSU favours solutions mutually acceptable to the parties to the dispute, provided that they are consistent with the WTO Agreements ([Article 3.7](#) of the DSU). Mutually agreed solutions to matters formally raised under the consultation and dispute settlement provisions of the covered Agreements must be notified to the DSB and the relevant Councils and Committees, where any Member may raise any point relating thereto ([Article 3.6](#) of the DSU).

1. CONSULTATIONS

The objective of consultations is to **allow parties to obtain satisfactory adjustment of the matter before resorting to any further action** ([Article 4.5](#) of the DSU). Each Member undertakes to accord sympathetic consideration to, and afford adequate opportunity for, consultation regarding any representation made by another Member concerning measures affecting the operation of any WTO Agreement ([Article XXII](#) of the GATT 1994; Article XXII of the General Agreement on Trade in Services (GATS); and [Article 4.2](#) of the DSU). Consultations allow parties to clarify the facts of the matter, thus dispelling misunderstandings as to the actual nature of the measure and claim at issue.

2. GOOD OFFICES, CONCILIATION AND MEDIATION

Unlike consultations, good offices, conciliation and mediation are not a compulsory stage in the WTO dispute settlement process. [Article 5](#) of the DSU provides for good offices, conciliation and mediation **to be undertaken voluntarily if the parties to the dispute agree**. They are strictly confidential and do not diminish the position of either party in any subsequent dispute settlement procedure. Good offices, conciliation and mediation may begin at any time and be terminated at any time.

b. ADJUDICATION

Adjudication under the DSU can be by a **panel** (Articles [6 to 16](#) of the DSU), the **Appellate Body** ([Article 17](#) of the DSU) in case of appeal of the panel report, or an **arbitrator** ([Article 25](#) of the DSU).

Panel and Appellate Body reports have, where applicable, to contain the recommendation that a measure which was found inconsistent with a WTO Agreement be brought into conformity with that Agreement. These reports may also suggest ways in which the Member concerned could implement the recommendations ([Article 19](#) of the DSU)

III.B.3. BODIES AND ENTITIES INVOLVED IN THE WTO DISPUTE SETTLEMENT PROCESS

a. DECISION MAKING - THE DSB

The General Council discharges its responsibilities under the DSU through the **DSB**, which consists of representatives of all WTO Members ([Article IV:3](#) of the Agreement Establishing the WTO). The DSB is responsible for administering the DSU, i.e. for **overseeing the entire dispute settlement process**.

1. MAIN FUNCTIONS OF THE DSB

The DSB has the authority to establish panels of experts to consider a case, to adopt panel and Appellate Body reports, maintain surveillance of the implementation of rulings and recommendations, and to authorize the suspension of concessions under the covered Agreements when a Member does not comply with a ruling ([Article 2.1](#) of the DSU).

2. DECISION-MAKING IN THE DSB AND NEGATIVE CONSENSUS RULE

The general rule is for the DSB to take decisions by consensus, as is the case for all decision-making in the WTO. However, a radically different procedure is followed in decision-making at some key stages in the dispute settlement process: establishment of a panel; adoption of panel and Appellate Body reports; and authorization for suspension of concessions or other obligations. At these stages the decision to accept the request, or adopt the report is taken unless there is a consensus against it; so-called "**negative consensus**". It contrasts sharply with the "positive consensus" rule applied in the old GATT dispute settlement system, where a consensus was required for the adoption of a ruling. The negative consensus rule constitutes one of the major outcomes of the WTO dispute settlement system.

Example: "negative consensus rule" vs. "positive consensus rule"

Imagine that Medatia and Tristat are two WTO Members. Suppose that in a dispute between Medatia and Tristat a panel found that Tristat is applying an internal regulation in a manner that discriminates against imported products from Medatia in favour of like domestic products from Tristat. Accordingly in its final report the panel concludes that Tristat is acting in a manner that is inconsistent with the national treatment obligation provided in Article III:4 of the GATT 1994. If Tristat does not appeal the report the next step would be the adoption of the report by the DSB.

According to the negative consensus rule the DSB will adopt the report unless all WTO Members represented at the meeting of the DSB (including Medatia – the "winning" party) decide against the adoption of the report

(Article 16.4 of the DSU). As you may have noticed in practice this rule allows the report to be adopted quasi-automatically. After the establishment of a panel the adoption of a panel report by the DSB is the second key instance in which the decision-making rule of negative consensus applies in the WTO dispute settlement system. The quasi-automatic adoption of a panel report pursuant to the negative consensus rule is important because the panel's report only becomes binding after the DSB has adopted it.

It contrasts sharply with the positive consensus rule applied in the old GATT dispute settlement mechanism where, by analogy, a consensus from all WTO Members represented at the meeting of the DSB would be required for the adoption of a ruling. The opposition of only one Member would be enough to block the adoption of a ruling. In our example, under the positive consensus rule, Tristat - the "losing" party - would be able to block the adoption of the report.

b. ADJUDICATING BODIES

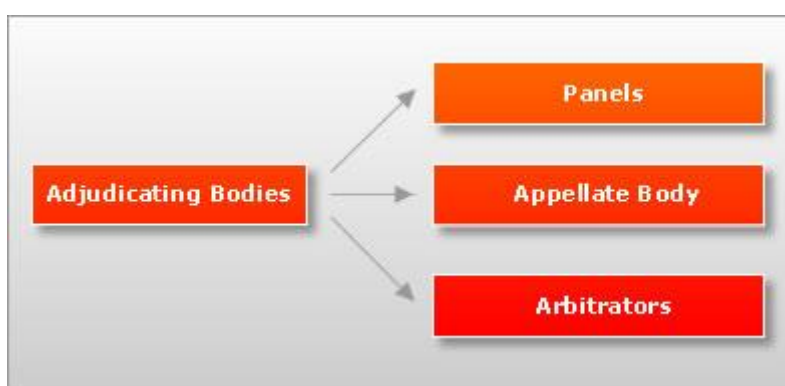


Figure 3: Adjudicating Bodies

1. PANELS

Where the Members concerned cannot find a mutually agreed solution through consultations, the DSB must, at the request of a party of the dispute, establish a panel. **The panel must review the factual and legal aspects of the case and submit a report to the DSB.**

Panels consist normally of three (and possibly up to five) experts who examine the legal and factual aspects of the case and submit a report to the DSB. The panel's report includes its conclusions as to whether the challenged measure is consistent or not with the WTO covered Agreements ([Article 11](#) of the DSU). There is no permanent panel at the WTO; instead, **a different panel is composed for each dispute.**

Who can be called to serve on a panel?

Panels are to be composed of **well-qualified governmental and/or non-governmental individuals**. The selection of panelists is made with a view to **ensuring the independence of the panel's members, a sufficiently diverse background and a wide spectrum of experience** ([Article 8.2](#) of the DSU). Citizens of WTO Members whose governments are parties of the dispute, or third parties, as defined in the DSU, may not serve on a panel concerned with that dispute, unless the parties of the dispute agree otherwise ([Article 8.3](#) of the DSU). **The WTO Secretariat maintains an indicative list of names from which panelists may be chosen.** The panel stage will be explained while describing the WTO process for settling disputes (Section II.C).

2. THE APPELLATE BODY

Panel reports can be appealed by either party in a dispute. **The Appellate Body is entrusted with the task of reviewing the legal aspects of the reports issued by panels.** The Appellate Body may uphold, modify or reverse the legal findings and conclusions of the panel ([Article 17.6](#) of the DSU). In doing so, it also provides consistency of decisions, which is in line with the objective of providing predictability to the system. The Appellate Body is the second and final stage in the adjudicatory part of the dispute settlement system.

The Appellate Body is composed of seven Members who are appointed by consensus by the DSB, to serve for a four-year term, with the possibility of being reappointed once ([Article 17.2](#) of the DSU). Thus, **unlike the panels, the Appellate Body is a permanent body.** It shall comprise persons of recognized authority, with demonstrated expertise in law, international trade and the subject matter of the WTO covered Agreements generally. The Appellate Body **membership must be broadly representative of the WTO membership** ([Article 17.3](#) of the DSU). The appellate review process will be also examined in Section II.C.

3. ARBITRATORS

Arbitration, as an alternative to dispute resolution through panel and Appellate Body procedures, may be resorted to by parties to a dispute, **through mutual agreement** ([Article 25](#) of the DSU). The DSU does not contain detailed procedures regarding resort to arbitration. Parties of the dispute are free to apply the rules and procedures they deem appropriate through mutual agreement. An agreement to resort to arbitration shall be notified to all Members sufficiently in advance of the actual commencement of the arbitration process. The parties to the proceeding shall agree to abide by the arbitration award. Arbitration awards shall be notified to the DSB and the relevant Council or Committee.

As we will see later on, arbitration may also be used during the stage of implementation of -- and alleged non-compliance with -- DSB recommendations (to establish the reasonable period of time for implementation and/or to determine the level of suspension of benefits in case of non-compliance). The stage of implementation and non-compliance will be explained in Section II.C.

c. EXPERTS

Disputes often involve complex factual questions of a technical or scientific nature, for instance when the existence or degree of a health risk related to a certain product is the subject of contention between the parties. As mentioned earlier, according to [Article 13](#) of the DSU, **panels have the right to seek information and technical advice from any individuals or bodies which they deem appropriate.** To know more about the right to seek information and technical advice from experts, see the next box.

TO KNOW MORE... RIGHT TO SEEK INFORMATION AND TECHNICAL ADVICE FROM EXPERTS

Panels may seek information from any relevant source, but before seeking information from any individual or body within the jurisdiction of a Member, the panel must inform that Member. In addition, some provisions in the covered Agreements explicitly authorize or require panels to seek the opinions of experts when they deal with questions falling under such Agreements (e.g. Articles 14.2, 14.3 of the DSU and Annex 2 of the Agreement on Technical Barriers to Trade (TBT)).

With respect to a factual issue concerning a scientific or other technical matter raised by a party to a dispute, panels may request an advisory report in writing from an expert review group (Article 13.2 of the DSU). Rules for the establishment of expert review groups and their procedures are contained in Appendix 4 of the DSU. Final reports of expert review groups are issued to the parties to the dispute. Expert review groups only have an advisory role.

d. THE SECRETARIAT

The WTO Secretariat, among others, provides **assistance in the dispute settlement process**.

1. ROLE OF THE DIRECTOR-GENERAL

GOOD OFFICES, CONCILIATION AND MEDIATION

The Director-General of the WTO may, acting in an ex officio capacity, offer good offices, conciliation or mediation with a view to assisting Members in settling a dispute (Article 5.6 of the DSU).

APPOINTMENT OF PANELISTS

The Director-General may also be requested, in certain circumstances, to appoint panel members. Upon receiving a request from either party to the dispute, the Director-General must determine the composition of the panel in consultation with the Chairman of the DSB and the Chairmen of the relevant Councils or Committees, after consulting the parties to the dispute. The Director-General must appoint the panelists whom he or she considers most appropriate in accordance with the DSU and any other special or additional rules or procedures of the covered Agreement(s) concerned in the dispute.

APPOINTMENT OF ARBITRATORS

The Director-General may appoint an arbitrator during the stage of implementation to establish a reasonable period of time for implementation and/or to determine the level of suspension of concessions (footnote to Articles 21.3(c) and 22.6 of the DSU).

2. SECRETARIAT STAFF

The Secretariat staff ensure the administrative support of the DSB. The Secretariat also assists Members in respect of dispute settlement at their request ([Article 27.2](#) of the DSU).

The Secretariat assists panels, especially on the legal, historical and procedural aspects of the matters dealt with by the panels, but also with respect to secretarial and technical support ([Article 27.1](#) of the DSU). **The Secretariat staff assisting a panel is usually composed of a secretary to the panel and a legal officer.** As we will see later on when we address the provisions on special and differential treatment included in the DSU, **in addition to conducting training courses for interested Members concerning dispute settlement procedures and practices, the Secretariat also provides additional legal advice and assistance in respect of dispute settlement to developing country Members.**

TO KNOW MORE... RULES OF CONDUCT

Under the DSU, the "players" in the dispute settlement process are subject to certain rules aimed at ensuring due process and unbiased recommendations and rulings.

Rules of Conduct for the Understanding on Rules and Procedures Governing the Settlement of Disputes (the Rules of Conduct, WT/DSB/RC/1) **are applicable to "covered persons", which include panel members, Appellate Body members, experts assisting panels, arbitrators and Secretariat staff.**

Under the Rules of Conduct, covered persons are required to be independent and impartial, to avoid direct or indirect conflicts of interest, and to respect the confidentiality of proceedings of bodies pursuant to the dispute settlement mechanism, in order to ensure that the integrity and impartiality of that mechanism is maintained. In particular the covered persons are required to disclose the existence or development of any interest, relationship or matter that he or she could reasonably be expected to know and that is likely to affect, or give rise to justifiable doubts as to, that person's independence or impartiality.

III.B.4. SUBSTANTIVE SCOPE OF THE DISPUTE SETTLEMENT SYSTEM

THE COVERED AGREEMENTS

The WTO dispute settlement system applies to all disputes brought pursuant to the consultation and dispute settlement provisions of the WTO Agreements listed in [Appendix 1](#) of the DSU ([Article 1.1](#) of the DSU). These Agreements are referred to as **the "covered Agreements"** in the DSU and **they include the Agreement Establishing the WTO, as well as basically all the Agreements annexed thereto (GATT, the other Multilateral Agreements on Trade in Goods, GATS, Trade-Related Intellectual Property Rights (TRIPS), the DSU and Plurilateral Trade Agreements)** with the exception of the TPRM in [Annex 3](#). Many matters brought before the DSB include alleged violations of more than one covered Agreement.

However, there are **two exceptions** to the general application of the DSU. First, in cases where there are so-called "special and additional rules and procedures" on dispute settlement contained in the covered Agreements (e.g. in the Agreement on Subsidies and Countervailing Measures (SCM)), they prevail over the rules in the DSU to the extent that there is a conflict between the two ([Appendix 2](#) of the DSU). Second, the applicability of the DSU to the Plurilateral Trade Agreements -- in Annex 4 of the WTO Agreement Establishing the WTO -- is subject to the adoption of a decision by the parties to each of these Agreements setting out the

terms for the application of the DSU to the individual Agreement, including any special and additional rules or procedures ([Appendix 1](#) of the DSU).

Interpretation of the WTO "covered Agreements" and the customary rules of interpretation of public international law

As mentioned earlier, the precise scope of the rights and obligations contained in the WTO Agreements is not always evident from a mere reading of the legal texts. Therefore, **Article 3.2** of the DSU recognizes the need to clarify the rights and obligations of Members under the WTO covered Agreements pursuant to "customary rules of interpretation of public international law".

While customary international law is normally unwritten, the Vienna Convention on the Law of Treaties (VCLT) has codified in Articles 31, 32 and 33 some of these customary rules of treaty interpretation. Although Article 3.2 of the DSU does not refer directly to such provisions, the Appellate Body has recognized their status of "rule of customary or general international law" (**US – Gasoline**, p. 17; **Japan – Alcoholic Beverages II**, pages 10-12). WTO adjudicating bodies make frequent reference to these rules when interpreting provisions contained in the covered Agreements. These legal interpretations are legally binding only on the parties and in respect of the subject matter of a specific dispute.

The text of the VCLT can be found at:

http://untreaty.un.org/ilc/texts/instruments/english/conventions/1_1_1969.pdf

III.B.5. EXCLUSIVE JURISDICTION OF WTO DISPUTE SETTLEMENT BODIES

[Article 23](#) of the DSU states that Members shall have recourse to, and abide by, the rules and procedures of the DSU when they seek redress of a violation of obligations under the covered Agreements.

The DSU promotes the use of a multilateral system of dispute settlement in place of unilateralism (unilateral actions by Members in the resolution of trade conflicts). This multilateral system is based on the principles for the management of disputes developed under Articles [XXII](#) and [XXIII](#) of GATT 1947 (and now of GATT 1994), as further elaborated and modified by the DSU ([Article 3.1](#) of the DSU).

Besides excluding unilateral actions by the Members, Article 23 of the DSU also precludes the use of other fora for the resolution of disputes regarding any provision of the WTO covered Agreements. In other words, the WTO dispute settlement mechanism has primacy over outside fora as far as the adjudication of disputes and the enforcement of WTO law is concerned.

Therefore, **WTO adjudicating bodies have exclusive jurisdiction to adjudicate rights and obligations under the WTO covered Agreements.** Furthermore, a panel is not in a position to choose freely whether or not to exercise such jurisdiction. According to the Appellate Body, a decision by a panel to decline to exercise validly established jurisdiction would seem to "diminish" the right of a complaining Member to "seek the redress of a violation of obligations" within the meaning of [Article 23](#) of the DSU and would not be consistent with a panel's duties under the DSU (*Mexico – Taxes on Soft Drinks*, Appellate Body Report, paras. 52-53).

III.B.6. WHAT ARE THE DIFFERENT TYPES OF COMPLAINTS UNDER THE WTO DISPUTE SETTLEMENT SYSTEM ?

As explained above, Articles [XXII](#) and [XXIII](#) of the GATT 1994 are the original legal basis for GATT/WTO dispute settlement system. They contain "consultation and dispute settlement" provisions which are nowadays set out in more detail in the DSU.

[Article XXIII](#) retains its significance mainly for specifying in paragraph 1 (a to c) the **conditions** under which the complainant can invoke the dispute settlement system. Accordingly, a WTO Member can resort to the dispute settlement system if it considers that **any benefit accruing to it directly or indirectly under the Agreement is being nullified or impaired or that the attainment of any objective of the Agreement is being impeded** as the result of one of the three scenarios or types of complaint specified below:

- a. **violation complaint:** the **respondent fails to carry out its obligations** under the GATT 1994 or other covered Agreement. In the case of violation of a WTO covered Agreement, **nullification or impairment is presumed to exist** ([Article 3.8](#) of the DSU);
- b. **non-violation complaint:** a **WTO-consistent measure frustrates the benefit a Member legitimately expects** from another Member under the WTO covered Agreements (for an example see [Japan- Film, DS44](#)); and,
- c. **situation complaint:** situation other than those mentioned in subparagraphs (a) and (b).

Among these, the so-called **"violation complaint" is by far the most frequent**. Only a few cases have been brought on the basis of an allegation of non-violation nullification or impairment of trade benefits. No "situation complaint" has ever resulted in a panel or Appellate Body report based on [Article XXIII:1\(c\)](#) of the GATT 1994.

With respect to WTO Agreements falling under [Annex 1A](#) of the Agreement Establishing the WTO (dealing with **trade in goods**), the complainant generally has to demonstrate that benefits accruing to it under a WTO Agreement have been nullified or impaired by another Member's measure, whether or not the measure violates a provision of the covered Agreement ([Article XXIII:1](#) of the GATT 1994).

With respect to **trade in services**, under the **GATS** (Annex 1B of the WTO Agreement), the failure by any Member to carry out its obligations or specific commitments under GATS gives another Member the right to have recourse to the DSU ([Article XXIII:1](#) of the GATS). Nullification or impairment of a benefit which could be reasonably expected to accrue to a Member under a specific commitment can be alleged in the absence of a conflict with the provisions of GATS ([Article XXIII:3](#) of the GATS). Regarding the TRIPS Agreement, in principle, the three types of complaints as explained above apply to it. However, [Article 64.2](#) of the TRIPS Agreement excluded "non-violation" and "situation complaints" for the first five years from the entry into force of the WTO Agreement. This "moratorium" has been extended several times, while the TRIPS Council has continued its examination of the scope and modalities of such complaints with a view to making recommendations.

EXERCISES

1. Summarize the main objectives and functions of the WTO dispute settlement system as envisaged in the DSU.
2. Can private parties or NGOs participate in WTO disputes?
3. Explain briefly the main functions of the DSB, the panel and the Appellate Body.
4. What are the "covered Agreements"?

III.C. THE PROCESS OF THE WTO DISPUTE SETTLEMENT SYSTEM

In order to promote the settlement of disputes, the DSU sets out in considerable detail the procedures and the timetable for the various stages of a dispute.

STAGES OF THE WTO DISPUTE SETTLEMENT PROCESS

There are **three main stages** to the WTO dispute settlement process:

- (i) **Consultations** between the parties;
- (ii) **Adjudication by panels and, if applicable, by the Appellate Body**; and,
- (iii) **Implementation of the ruling**, which includes the possibility of suspending concessions or other obligations in the event of failure by the losing party to implement the ruling.

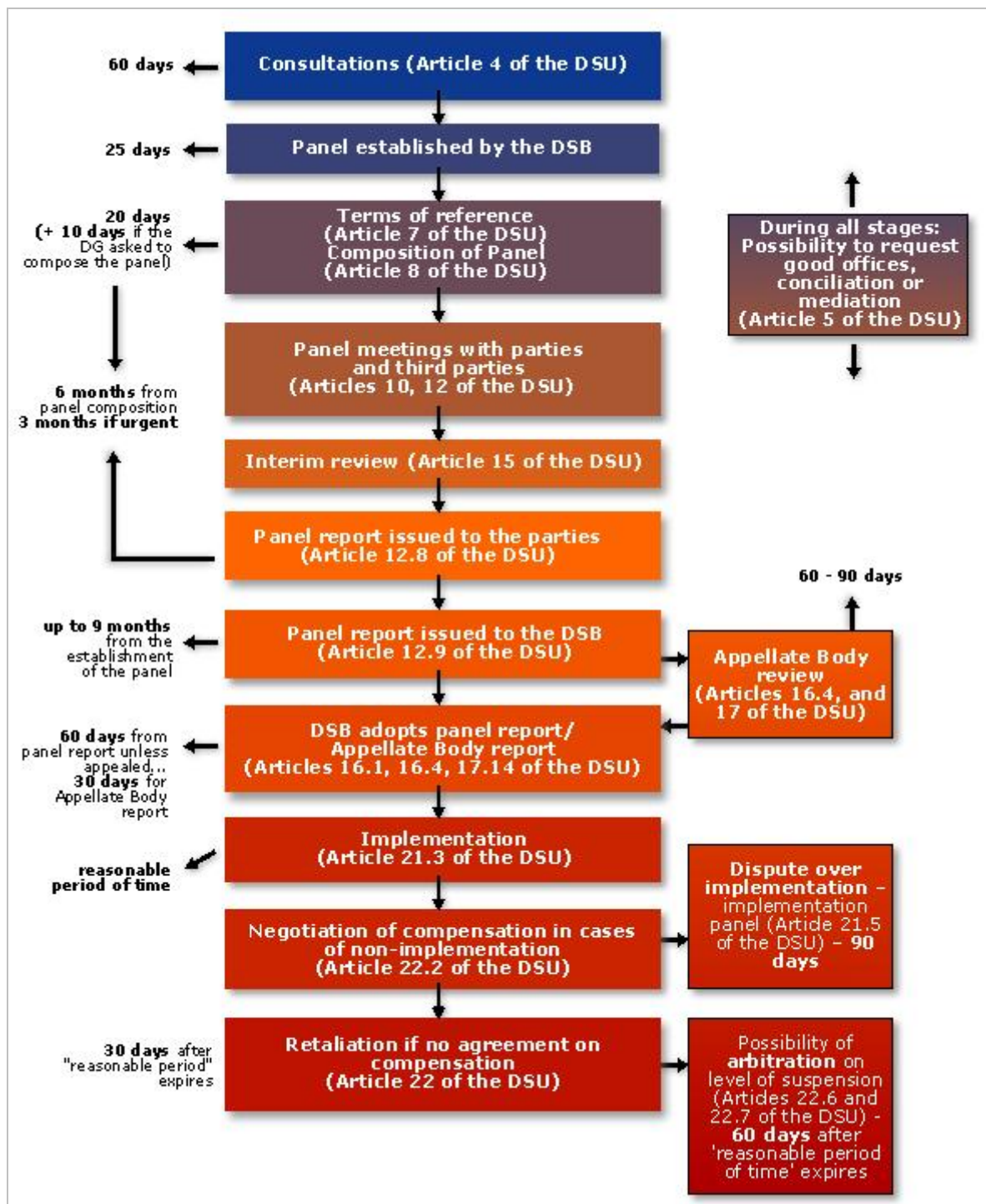


Figure 4: Flow chart of the Dispute Settlement Process

The flow chart above illustrates the **main stages and timeframes of the WTO dispute settlement process**. As shown in the chart, the sum of the underlined timeframes represents the approximate total time generally needed to settle a WTO dispute.

TOTAL TIME FOR REPORT ADOPTION

For the **adjudicating stage** (from "the establishment of the panel" to "the adoption of panel/Appellate Body report"), it normally takes **9 months without appeal**, and **12 months with appeal** (Article 20 of the DSU).

III.C.1. CONSULTATIONS

As mentioned earlier, the preferred objective of the DSU is for the Members concerned to settle the dispute between themselves in a manner that is consistent with the WTO Agreements ([Article 3.7](#) of the DSU). Accordingly, **bilateral consultations are the first stage of formal dispute settlement.**



Figure 5: Consultations

a. OBJECTIVES AND MAIN FEATURES

Consultations are subject to [Article 4](#) of the DSU and any relevant WTO covered Agreements. As mentioned earlier, their objective is to allow parties to obtain satisfactory adjustment of the matter before resorting to further actions ([Article 4.5](#) of the DSU). They are a **mandatory stage** of the WTO dispute settlement process. Consultations have a confidential character ([Article 4.6](#) of the DSU). Nevertheless, any mutually agreed solutions reached even during this stage must be notified to the DSB and the relevant Councils and Committees, where any Member may raise any point relating to them ([Article 3.6](#) of the DSU). Even when consultations have failed to resolve the dispute, it always remains possible for the parties to find a mutually agreed solution at any later state of the proceedings.

b. PROCEDURE FOR CONSULTATIONS

1. REQUEST FOR CONSULTATIONS

The **complaining Member addresses the request for consultations to the responding Member. It must also notify the request to the DSB and to relevant Councils and Committees** overseeing the Agreement(s) in question (Articles [4.3](#) & [4.4](#) of the DSU). The request must be made in writing and shall give the reasons for the request, including **identification of the measures at issue and an indication of the legal basis** of the complaint ([Article 4.4](#) of the DSU). The request for consultations formally initiates a dispute in the WTO.

The Member to which a request for consultation is made, is required, unless otherwise mutually agreed, to reply to the request within ten days after the date of its receipt and to enter into consultations in good faith within a period of no more than 30 days after the date of receipt. If the requested Member does not do so, the Member that requested consultations may proceed directly to request the establishment of a panel ([Article 4.3](#) of the DSU).

2. REQUESTS BY THIRD PARTIES

A third party requesting to join consultations must have a substantial trade interest. However, such a third party may participate at the consultation stage only if consultations were requested pursuant to Article XXII:1 of GATT 1994, Article XXII:1 of GATS, or corresponding provisions of the covered Agreements, and if the Member to which the request is made agrees that the third party has a substantial trade interest (Article 4.11 of the DSU). The request must be addressed to the other Members and the DSB within ten days after the circulation of the request for consultations.

3. TIMEFRAMES

The consultations stage shall take a minimum of 60 days (unless both parties agree to conclude it earlier). This means that the complainant is entitled to request the establishment of a panel after this period, although very often it takes more time. In cases of urgency (e.g. perishable goods), this stage takes a minimum of 30 days.

III.C.2. ADJUDICATION

If the consultations have failed to settle the dispute, the complaining party may request the establishment of a panel to adjudicate the dispute. The adjudicating stage is intended to resolve the legal dispute. The process of adjudication starts before a panel and may continue before the Appellate Body if one of the parties decides to appeal the report of the panel. As we will see, the rulings of the adjudicating bodies are binding for the parties after their adoption by the DSB.

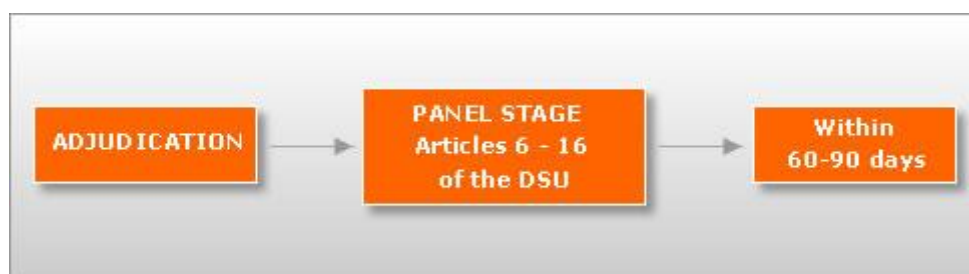


Figure 6: Panel Stage

a. PANEL

1. REQUEST FOR THE ESTABLISHMENT OF A PANEL

A request for the establishment of a panel must be made in writing and indicate whether consultations were held, **identify the specific measures at issue and provide a brief summary of the legal basis** of the complaint sufficient to present the problem clearly ([Article 6.2](#) of the DSU). **The content of the request of establishment of a panel is crucial since it defines and limits the scope of the dispute.**

The panel **will be established at the latest at the DSB meeting following that at which the request first appears as an item on the agenda** of the DSB, unless the complaining party no longer requests it or the DSB decides by consensus at that meeting not to establish a panel ([Article 6.1](#) of the DSU). If the

complaining party so requests, a special meeting of the DSB must be convened for the purpose of establishing the panel within 15 days of the request, provided that at least ten days' advance notice is given ([footnote 5](#) to Article 6.1 of the DSU).

2. CONSTITUTION OF A PANEL

A panel is considered to be properly constituted after the terms of reference have been agreed upon and the panelists have been selected (Articles [7](#) and [8](#) of the DSU).

Panels usually have standard **terms of reference** (to examine, in light of the relevant provisions in the covered Agreements cited by the parties, the matter referred to the DSB by the complaining party), unless the parties to the dispute agree otherwise within 20 days from the establishment of the panel ([Article 7.1](#) of the DSU). The DSB may authorize its Chairman to draw up special terms of reference in consultation with the parties to the dispute ([Article 7.3](#) of the DSU) – as an example, see *Brazil – Desiccated Coconut*, DS22).

The **composition of the panel** ([Article 8](#) of the DSU) takes place once the panel has been established by the DSB. As explained earlier, potential candidates must meet certain requirements in terms of qualifications. Panels are composed of three panelists unless the parties to the dispute agree, within ten days from the establishment of the panel, to a panel composed of five panelists ([Article 8.5](#) of the DSU). **The Secretariat proposes nominations for the panel to the parties to the dispute.** The parties to the dispute must not oppose nominations except for compelling reasons ([Article 8.6](#) of the DSU). **If there is no agreement on the composition of the panel within 20 days after the date of its establishment, either party may request the Director-General to determine the composition of the panel by appointing panelists,** in consultation with the Chairman of the DSB and the Chairman of the relevant Council or Committee ([Article 8.7](#) of the DSU).

Where more than one Member requests the establishment of a panel related to the same matter, the DSB should, whenever feasible, establish a single panel to examine these complaints taking into account the rights of all Members concerned ([Article 9.1](#) of the DSU).

3. PANEL PROCESS

FIRST STEP → ORGANIZATIONAL MEETING

Panel procedures are primarily set out in [Article 12](#) and [Appendix 3](#) of the DSU. During a first "organizational" meeting, the panel, guided by the suggested timetable in [Appendix 3](#) of the DSU, determines its in consultation with the parties ([Article 12.3](#) of the DSU).

SECOND STEP → SUBMISSIONS AND ORAL HEARINGS

Parties exchange written submissions, and the panel convenes at least two hearings where parties are entitled to present their views orally and where the panel may seek clarifications and ask questions. Panels have the right to ask written questions. Third parties with a substantial interest in the matter before the panel, and who have notified their interest to the DSB, are to be granted an opportunity to be heard by the panel and make written submissions ([Article 10.2](#) of the DSU).

THIRD STEP → PREPARATION OF THE PANEL REPORT

Once written submissions have been received and the parties and third parties have been heard, the panel issues the draft **descriptive part of its panel report** (containing facts and arguments) **for comments** in writing by the parties ([Article 15.1](#) of the DSU). In accordance with the proposed timetable in Appendix 3 of the DSU, parties are invited to make comments on the draft descriptive part (within two weeks).

After the receipt of comments on the descriptive part, the panel issues its **interim report** containing the revised descriptive part and the findings of the report. Parties are again invited to make comments and may request an interim review meeting of the panel further to argue specific points raised with respect to the interim report. This is the interim review stage ([Article 15](#) of the DSU). The **final report must contain a reference to all the arguments raised by the parties during the interim review stage** ([Article 15.3](#) of the DSU).

Panel deliberations are confidential. reports of panels are drafted without the presence of the parties to the dispute, in the light of the information provided, and the statements made. The opinions expressed in the panel report by individual panelists are anonymous ([Article 14](#) of the DSU). **Where a decision cannot be arrived at by consensus, the matter at issue has to be decided by a majority of the panelists.**

FOURTH STEP → FINAL REPORT

The panel issues its final report to the parties within two weeks following the interim review meeting, if one is held, and **circulates it to all WTO Members** once the report has been translated into all three of the official languages of the WTO (English, French and Spanish).

TIMEFRAMES

As a general rule, panels are required to issue the final report to the parties within six months from the date when the composition and the terms of reference of the panel have been agreed upon. In cases of urgency, the panel is to aim to issue its report to the parties to the dispute within three months from its constitution ([Article 12.8](#) of the DSU). When the panel considers that it cannot issue its report within six months, or three months in case of urgency, it must inform the DSB in writing of the reasons for the delay and provide an estimate of the period within which it will issue its report. In any case, the examination is to be completed within nine months of the establishment of the panel ([Article 12.9](#) of the DSU). [Appendix 3](#) DSU provides a proposed timetable for panel work.

Accelerated procedures with shorter time periods apply under the Agreement and Subsidies and Countervailing Measures, with respect to dispute settlement on prohibited subsidies and actionable subsidies (see [Articles 4](#) and [7](#) of the SCM Agreement).

4. ADOPTION OF THE PANEL REPORT

A panel report may be considered for adoption 20 days after it is circulated to all the Members ([Article 16.1](#) of the DSU). **It shall be adopted at a DSB meeting within 60 days after the date of circulation of a panel report to the Members**, unless a party to the dispute formally notifies the DSB of its decision to appeal or the DSB decides by consensus not to adopt the report ([Article 16.4](#) of the DSU).

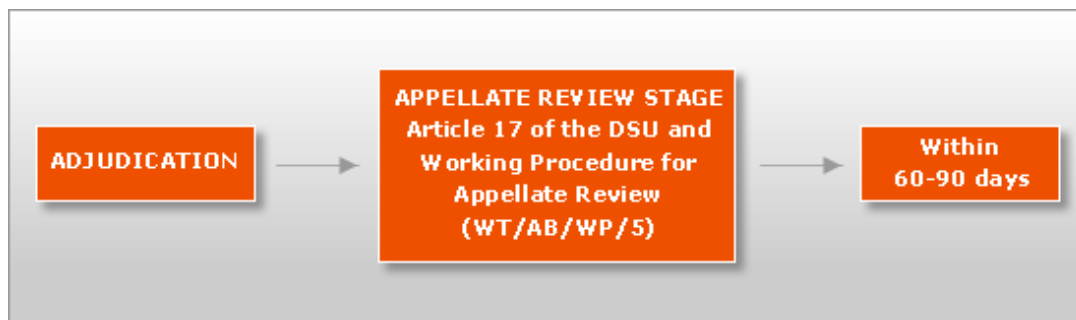


Figure 7: Appellate Review

b. APPELLATE REVIEW

1. WHO CAN APPEAL?

The Appellate Body is responsible for hearing appeals from panel decisions ([Article 17](#) of the DSU). **Only parties to the dispute, not third parties, may appeal a panel report.** Third parties which have notified the DSB of a substantial interest in the matter before the panel may make written submissions to, and be given an opportunity to be heard by, the Appellate Body ([Article 17.4](#) of the DSU).

Any appeal of a **panel report must occur before the report is adopted by the DSB.** The appeal process begins when a party to the dispute formally notifies the DSB of its decision to appeal ([Article 16.4](#) of the DSU).

2. WHAT CAN BE SUBJECT TO APPEAL?

Appeals are limited to **issues of law covered in the panel report and legal interpretations developed by the panel** ([Article 17.6](#) of the DSU). The Appellate Body must address, but also limit its review to, each of the issues of law covered by the panel report and the legal interpretations developed by the panel which were appealed during the appellate proceeding (Articles [17.6](#) and [12](#) of the DSU). The Appellate Body may uphold, modify or reverse the legal findings and conclusions of the panel ([Article 17.13](#) of the DSU).

3. TIMEFRAME

The Appellate Body shall generally complete its review process within 60 days. In no case shall it exceed 90 days ([Article 17.5](#) of the DSU).

c. ADOPTION OF APPELLATE BODY REPORT

An Appellate Body report must be adopted by the DSB and unconditionally accepted by the parties to the dispute unless the DSB decides by consensus not to adopt the Appellate Body report within 30 days following its circulation to Members. **In case of appeal, the panel and the Appellate Body reports will be adopted by the DSB together** ([Article 17.14](#) of the DSU). As mentioned above, **the panel and Appellate Body reports will only be binding upon the parties after adopted by the DSB.**

III.C.3. IMPLEMENTATION & NON-COMPLIANCE

In the WTO, **there is no independent policing body responsible for enforcing the recommendations of panels and the Appellate Body.** The **DSB**, which is composed of all WTO Members, **supervises the implementation of panel and Appellate Body reports** ([Article 2](#) of the DSU). The DSU states that prompt compliance with the recommendations or rulings of the DSB is essential in order to ensure the effective resolution of disputes ([Article 21.1](#) of the DSU).

Implementation (Article 21 of the DSU)

a. SURVEILLANCE AND IMPLEMENTATION OF REPORTS

At a meeting within 30 days after the adoption of the report, **the "losing" Member has to inform the DSB of its intentions to implement** the recommendations and rulings of the DSB and whether it is able to comply immediately with the recommendations and rulings.

1. IMPLEMENTATION WITHIN A "REASONABLE PERIOD OF TIME"

If it is impracticable to comply immediately, the party will be granted a reasonable period of time to comply. This **reasonable period of time can be decided in three different ways:** (i) proposed by the Member concerned with the approval of the DSB ([Article 21.3\(a\)](#) of the DSU); or, (ii) agreed upon by the parties within 45 days after the adoption of the report ([Article 21.3\(b\)](#) of the DSU); or, (iii) determined by arbitration within 90 days after the adoption of the report ([Article 21.3\(c\)](#) of the DSU).

When the reasonable period of time is arbitrated, a guideline for the arbitrator is that the reasonable period of time to implement the panel or Appellate Body recommendations should not exceed 15 months from the date of adoption of a panel or Appellate Body report (may be shorter or longer, depending upon the particular circumstances).

The period from the date of establishment of a panel by the DSB until the date of determination of the reasonable period of time is also not to exceed 15 months, unless the parties to the dispute agree otherwise. Unless the DSB decides otherwise, **the issue of implementation** is placed on the agenda of the DSB, six months following the date of establishment of the reasonable period of time. It **remains on the DSB's agenda until the issue is resolved.**

2. DISAGREEMENT ON IMPLEMENTATION

If there is disagreement as to the consistency with the WTO Agreement of measures taken to comply with DSB recommendations, a party may have recourse to the dispute settlement procedures, referring the matter to the initial panel wherever possible for expedited adjudication ([Article 21.5](#) of the DSU).

Non-compliance Article 22 of the DSU

b. **NON COMPLIANCE**

In cases of non-compliance, parties may agree to compensation. In the absence of such agreement, the "winning" Member may suspend concessions or other obligations, but only after obtaining the prior authorization from the DSB. Compensation and the suspension of concessions or other obligations are **temporary** measures available in the event that the recommendations and rulings are not implemented within the reasonable period of time. Neither compensation, nor the suspension of concessions, nor other obligations are preferred to the full implementation of a recommendation to bring a measure into conformity with the covered Agreements ([Article 22.1](#) of the DSU).

1. **FIRST STEP → VOLUNTARY COMPENSATION**

If the WTO Member concerned fails within the reasonable period of time to bring the measure found to be inconsistent with the covered Agreement into compliance in accordance with the recommendations, that Member must, if so requested, enter into negotiations with a view to agreeing on mutually acceptable compensation ([Article 22.2](#) of the DSU). **This compensation does not mean monetary payment; it means that the respondent is supposed to offer a benefit, for example a tariff reduction, which is equivalent to the benefit that the respondent has nullified or impaired by applying its measure.** The **compensation is voluntary** and, if granted, must also be consistent with the covered Agreements.

2. **SECOND STEP → SUSPENSION OF CONCESSIONS**

Authorization for suspension of concessions or other obligations may be sought from the DSB by the Member concerned if no satisfactory compensation has been agreed upon within 20 days after the date of expiry of the reasonable period of time. **The DSB is required to grant such authorization** within 30 days of the expiry of the reasonable period of time unless it decides by consensus to reject the request.

CONDITIONS FOR THE SUSPENSION OF CONCESSIONS OR OTHER OBLIGATIONS

As a general principle, **the complaining party should first seek to suspend concessions or other obligations with respect to the same "sector"(s) as that in which nullification or impairment has been found.** If it is not practicable or effective to do so in the same sector(s), the suspension of concessions or other obligations may be made in other sector(s) under the same Agreement. If even that is not practicable and the circumstances are serious enough, **the complaining party may seek to suspend concessions or obligations under another Agreement. This is referred to as "cross-retaliation".** For these purposes, "sectors" are classified in three categories: (i) goods (comprises all goods); (ii) services – as identified in relevant GATS documents; and, (iii) intellectual property as categorized in relevant sections of the TRIPS Agreement) (see [Article 22.3\(f\)](#) of the DSU). The "Agreements" are: (i) for goods, the Agreements listed in Annex 1A of the Agreement Establishing the WTO (as well as in Annex 4, as applicable); (ii) with respect to services, the GATS; and, (iii) with respect to intellectual property rights, the TRIPS Agreement.

The level of suspension of obligations authorized by the DSB must be "equivalent" to the level of nullification or impairment – that is, it may not go beyond the harm caused by the respondent ([Article 22.4](#) of the DSU). The **suspension of obligations is prospective** (it includes only the time-period after the DSB has granted the authorization-not the period of the dispute or maintenance of the measure).

DISAGREEMENT ON THE LEVEL OF SUSPENSION OF CONCESSIONS

In case of disagreement regarding either the equivalence of the level of nullification with the level of suspension or the conditions applicable to cross-retaliation, arbitration may be requested (Articles [22.6](#) and [7](#) of the DSU). Such arbitration shall be carried out by the original panel, if members are available, or by an arbitrator appointed by the Director-General, and shall be completed within 60 days after the date of expiry of the reasonable period of time. Concessions or other obligations shall not be suspended during the course of the arbitration ([Article 22.6](#) of the DSU).

c. SURVEILLANCE UNTIL FINAL IMPLEMENTATION

As mentioned above, surveillance by the DSB is an important feature of the dispute settlement mechanism of the WTO. **The DSB must continue to keep under surveillance the implementation of adopted recommendations or rulings**, including those cases where compensation has been provided or concessions or other obligations have been suspended but the recommendations to bring a measure into conformity with the covered Agreements have not been implemented ([Article 22.8](#) of the DSU).

EXERCISES

5. What are the main stages in a WTO dispute?
6. Explain the consultation stage during the settlement of a WTO dispute.
7. Describe the adjudication stage during a WTO dispute.
8. What is the respondent required to do in case of a successful violation complaint? What can the complainant Member do if the respondent (losing Member) fails to do so?

III.D. SPECIAL & DIFFERENTIAL TREATMENT UNDER THE WTO DISPUTE SETTLEMENT SYSTEM

Developing country Members have been active participants in the dispute settlement system since 1995, both as complainants and respondents. They have initiated disputes against developed country Members, but also against other developing country Members. Furthermore, the participation of developing countries as third parties has been quite frequent. By contrast, least-developed country (LDC) Members have so far had a very low level of involvement in dispute settlement.

Why is the WTO dispute settlement system important for developing countries?

It is generally agreed that the existence of a compulsory multilateral dispute settlement system is itself a significant benefit for developing country and small economies. Such a system, to which all Members have equal access and in which decisions are made on the basis of rules rather than on the basis of economic power, empowers developing countries and smaller economies by placing "the weak" on a more equal footing with "the strong".

At the same time, it is clear that developing country Members wanting to avail themselves of the benefits of the dispute settlement system, face considerable burdens. For example, developing countries, especially the smaller ones, often do not have a sufficient number of specialized human resources who are experts in the intricacies of the substance of WTO law or the dispute settlement procedures.

The ability of developing country Members to make effective use of the dispute settlement system is essential for them to be able to reap the full benefits they are entitled to under the WTO Agreement.

As with the special and differential treatment for developing country, as provided in various WTO Agreements, the DSU also addresses the particular status of developing country Members and LDC Members through additional or privileged procedures and legal assistance during the WTO dispute settlement process. In general, developing countries may choose a **faster procedure, request longer time limits, or request legal assistance**. WTO Members are encouraged to give special consideration to the situation of developing country Members. The provisions on special and differential treatment include:

III.D.1. ACCELERATED PROCEDURE AT THE REQUEST OF A DEVELOPING COUNTRY MEMBER

The **Decision of 5 April 1996** (the 1996 Decision, **BISD 14S/18**) operates in cases where a complaint based on any of the covered Agreements is brought by a developing country Member against a developed country Member ([Article 3.12](#) of the DSU). Among others, the 1996 Decision provides good offices conducted by the Director-General with a view to facilitate a solution, as well as reduced timeframes. In case of conflict between a provision of the DSU and a provision of the 1996 Decision, the latter prevails.

III.D.2. SPECIAL CONSIDERATION OF A LDC MEMBER INVOLVED IN A CASE

Particular consideration shall be given to the special situation of LDC Members at all stages of the dispute. Members are to exercise due restraint in bringing a dispute against LDC Members. The Director-General or the Chairman of the DSB are required, upon request by a LDC Member, to offer their good offices, conciliation or mediation to help the parties to settle the dispute, before having to resort to requesting the establishment of a panel. If a measure adopted by a LDC Member has been found to be inconsistent with WTO rules, complaining parties are to exercise due restraint in asking for compensation, or seeking authorization to suspend the application of concessions or other obligations ([Article 24](#) of the DSU).

III.D.3. ADDITIONAL LEGAL ADVICE AND ASSISTANCE

While the Secretariat assists Members in respect of dispute settlement at their request, there may also be a need to provide additional legal advice and assistance in respect of dispute settlement to developing country Members. To this end, the Secretariat must make available a qualified legal expert from the WTO technical cooperation services to any developing country Member which so requests. This expert must assist the developing country Member in a manner ensuring the continued impartiality of the Secretariat ([Article 27.2](#) of the DSU).

III.D.4. SPECIFIC PROVISIONS DURING THE DISPUTE SETTLEMENT PROCESS

- **During consultations** – Members should give special attention to the particular problems and interests of developing country Members in consultations ([Article 4.10](#) of the DSU). If the measure subject to consultations was taken by a developing country Member, the parties may agree to extend the regular period for consultations. If there is no agreement, the DSB chairperson may extend the time-period ([Article 12.10](#) of the DSU);
- **Composition of panels** – at least one panelist should be selected from a developing country Member in a dispute between a developing country Member and a developed country Member, if the developing country Member so requests ([Article 8.10](#) of the DSU);
- **During the panel stage** – if the developing country is the respondent, the panel must accord to it sufficient time to prepare and present its defence ([Article 12.10](#) of the DSU). In addition, if the developing country raises rules on special and differential treatment of the DSU or the covered Agreements, the panel report must explicitly indicate the form in which these rules have been taken into account ([Article 12.11](#) of the DSU);
- **During implementation** – particular attention should be paid to matters affecting the interest of developing country Members (e.g. in the determination of the reasonable period of time ([Article 21.2](#) of the DSU)). The DSB shall consider what further action it might take in addition to surveillance, which would be appropriate to the circumstance, if a matter relating to implementation has been raised by a developing country Member ([Article 21.7](#) of the DSU). To take such action, the DSB should take into account the trade coverage of the challenged measures and its impact on the economy of the developing country Member ([Article 21.8](#) of the DSU).

Some of the provisions mentioned above have been applied very frequently, but others have not yet had any practical relevance. A general criticism is that several of these rules are not very specific. These provisions are **currently under review**, within the process of review of the DSU (see below), **with a view to strengthening them and making them more precise and effective**.

The Advisory Centre on WTO Law (ACWL)

The Advisory Centre on WTO Law (ACWL) provides legal advice on WTO law support in WTO dispute settlement proceedings and training in WTO law to developing countries economies in transition LDCs and accession candidates. For legal assistance in WTO dispute settlement proceedings these countries pay discounted rates at varying levels that depend on the level of economic development and on whether they are members of the ACWL. The ACWL is an intergovernmental organisation separate and independent from the WTO. For more information on the ACWL see http://www.acwl.ch/e/index_e.aspx.

III.E. NEGOTIATIONS: REVIEW OF THE DSU

The DSU review began in 1997. In Doha in 2001, the Members agreed to negotiations on improvements and clarifications of the DSU. The Doha Ministerial Declaration states that the review of the DSU is not part of the single undertaking ([paragraph 30](#) of the Doha Ministerial Declaration). This means that the process of review of the DSU is not tied to the success or failure of the other negotiations mandated by the Doha Ministerial Declaration. Despite intensive negotiations, Members were unable to conclude negotiations by the end of the deadline (May 2003), which was then extended by the General Council at its meeting in July 2003. The on-going process of review of the DSU includes diverse matters such as:

- Extension of third parties' rights- they would also have, among others, the right to receive copies of all parties' submissions before the issuance of the interim report and the right to attend all substantive panel meetings;
- The issue of "sequencing" - refers to the order in which two phases of the procedure – the compliance proceeding and the suspension of obligations - should occur when the complainant considers that the respondent has failed to comply fully with the final rulings, considering the timeframes provided in the DSU for each phase;
- Remand - would allow the Appellate Body to request the DSB to remand the issue to the original panel when there are insufficient factual findings in the panel report to address an issue on appeal;
- Special and differential treatment for developing country Members;
- Transparency - of dispute settlement proceedings;
- Remedies in case of non-compliance.

Until now, there has been no agreement among the Members on any of these issues.

EXERCISES

9. What are the benefits of the WTO dispute settlement system for developing Members?.

ILLUSTRATION - THE WTO DISPUTE SETTLEMENT SYSTEM

SCENARIO

Let us assume that Medatia is a developed country Member and Tristat is a developing country Member of the WTO. At the same time both countries are signatories to a bilateral free trade agreement which among others includes a dispute settlement mechanism to resolve trade disputes derived from such agreement.

Recently Medatia imposed an import ban on cars originating in Tristat. Tristat believes that Medatia's import ban has violated its obligation under [Article XI:1](#) of the GATT 1994 and intends to bring the dispute to the WTO dispute settlement system. However Medatia insists that the dispute should be resolved through the dispute settlement mechanism provided in the bilateral free trade agreement between them which includes a provision similar to [Article XI:1](#) of the GATT 1994.

Tristat and Medatia held diplomatic meetings with a view to resolve the dispute however no agreement was reached among the parties.

QUESTION

Assume you are a senior officer at the Ministry of Foreign Affairs of Tristat and an expert on WTO law and you are consulted on whether Tristat can bring this dispute to the WTO. If so what is the process that Tristat may go through by resorting to the WTO dispute settlement system?

ADVICE

1. JURISDICTION OF THE WTO DISPUTE SETTLEMENT SYSTEM

Article 23 of the DSU states that Members shall have recourse to the rules and procedures of the DSU when they seek redress of a violation of obligations under the covered Agreements. **Therefore, Tristat is entitled to bring the dispute to the WTO.**

2. WTO DISPUTE SETTLEMENT PROCESS

To resort to the WTO dispute settlement system, Tristat should go through the following stages:

CONSULTATIONS (MINIMUM 60 DAYS)

Tristat shall first address a request for consultations in writing to Medatia on the import ban. It must also notify the request to the DSB and the Goods Council. In the request for consultations, Tristat shall give the reasons for the request, including identification of the measures at issue (import ban) and an indication of the legal basis of the complaint (e.g. [Article XI:1](#) of the GATT 1994). If Tristat and Medatia reach a mutually agreed solution, the process ends (once this mutually agreed solution has been notified to the DSB and the relevant Councils and Committees pursuant to [Article 3.6](#) of the DSU). However, if there is no agreement among the parties, Tristat is entitled to continue to the next stage of the proceeding (adjudication).

PANEL (9 MONTHS)

If the consultation fails to settle the dispute within 60 days, Tristat can request the establishment of a panel, which must indicate whether consultations were held, identify the specific measures at issue and provide a brief, but sufficiently clear, summary of the legal basis of the complaint. The request must be made in writing and is addressed to the Chairman of the DSB.

A panel will be normally established at the second DSB meeting where the request is made unless the DSB decides by consensus not to establish it. The panel normally consists of 3 panelists proposed by the Secretariat in consultation with the parties. If the parties do not agree on the composition of the panel, Tristat can request the Director-General of the WTO to compose the panel.

During the panel stage, Tristat is required to present its case and arguments in writing and orally to the panel and to Medatia before and at the first and second oral hearings. After the panel issues the draft descriptive part of its report -- which contains only the descriptive section (includes facts and arguments) -- Tristat (and Medatia) are entitled to make comments on the draft within a period of time set by the panel. The panel will then issue its interim report -- which includes both the descriptive part and its findings and conclusions -- to the parties. Either party may submit a written request for the panel to review precise aspects of the interim report and may request a further meeting with the panel. Subsequently, the panel will issue its final report which will be submitted to Tristat and Medatia first and later be circulated to all WTO Members. The report becomes binding after it is adopted by the DSB within 60 days after its circulation, unless one of the parties decides to appeal the report.

APPELLATE BODY (60-90 DAYS)

Before the adoption of the panel report, either party can appeal issues of law covered in the panel report and legal interpretations developed by the panel by submitting a notification of its decision to appeal to the DSB. During the appeal, Tristat is required to set out in detail its arguments in writing and, thereafter, before the Appellate Body division in an oral hearing. The Appellate Body may uphold, modify or reverse the legal findings and conclusions of the panel. The Appellate Body report will be circulated to all WTO Members and be adopted, together with the panel report, by the DSB 30 days following its circulation, unless there is a consensus not to do so.

IMPLEMENTATION

If Medatia's import ban is found to be inconsistent with [Article XI:1](#) of the GATT 1994, it would be required to bring its measure into conformity with such provision. If immediate compliance is not possible, the reasonable period of time for implementation can be agreed upon by Tristat and Medatia or be decided by an arbitrator (should not exceed 15 months). Tristat can raise the issue of implementation at any time in the DSB, which is responsible for surveillance of implementation of rulings. After the lapse of the reasonable period of time for implementation, if there is disagreement among the parties on whether Medatia has implemented the report, Tristat is entitled to request the establishment of a compliance panel, which will decide whether Medatia has brought its measure into conformity with WTO rules.

NON-COMPLIANCE

In case Medatia fails to bring its measure into conformity, Tristat is entitled to request that Medatia agree upon compensation (for example a tariff reduction). If Tristat and Medatia fail to agree on satisfactory compensation, Tristat can request permission from the DSB for the suspension of its concessions or other

obligations vis-à-vis Medatia. If such authorization is granted, Tristat may suspend its tariff concessions or other obligations under the WTO vis-à-vis Medatia up to a level equivalent to the level of nullification of impairment caused by the measure at issue.

Last but not least, Tristat should note that it always remains possible for the parties (Tristat and Medatia) to find **a mutually agreed solution at any state of the proceedings** after consultation.

IV. SUMMARY

The dispute settlement mechanism is aimed at providing a forum for the settlement of disputes between WTO Members. As compared to its predecessor - the dispute settlement mechanism provided in the GATT 1947 - the mechanism agreed in the Uruguay Round and embodied in the **Dispute Settlement Understanding (DSU)** offers unquestionably more advantages to the WTO Members. Contrary to the GATT 1947, the DSU provides near automaticity in decision-making in certain key issues related to the settlement of disputes for example panels establishment and adoption of panel and Appellate Body reports by the DSB. In addition the DSU provides one single procedure with clearly-defined rules for the resolution of trade disputes among the Members and the possibility to appeal the reports of the panels. In doing so the DSU provides an effective mechanism to settle disputes which has contributed to the stability and predictability of the MTS. This constitutes a significant benefit for all Members and specially for developing Members who can have resort to a mechanism in which decisions are made on the basis of rules.

Only WTO Member governments have standing to initiate dispute settlement proceedings. They can act either as "complainant" or "respondent" (enjoy full rights) or "third parties" (enjoy some rights - explained below). Other entities have no legal right to participate in WTO dispute settlement proceedings, although adjudicating bodies may deem appropriate to accept or consider their submissions in certain cases and after consulting with the parties.

The dispute settlement process applies to all disputes brought under the covered Agreements and includes three main stages: 1. consultations; 2. adjudication (panels and in case of appeal the Appellate Body); and, 3. implementation.

A dispute starts formally with a request for consultations. The objective of this stage is to give the parties an opportunity to discuss the matter and find a mutually agreed solution consistent with the WTO Agreements (preferred solution). If an agreed solution is not possible the complainant may request the establishment of a panel which after composed will make an objective assessment of the matter in order to submit a report with its rulings and recommendations. Either party may appeal the report of the panel but only with respect to issues of law. The Appellate Body main function is to correct legal errors of the panels and provide consistency of decisions contributing in this way with the stability and predictability of the system. The recommendations of the panels and Appellate Body have to be adopted by the DSB before becoming binding for the parties to the dispute. As explained above this adoption is quasi-automatic due to the negative consensus rule. Approximately the total time of a dispute is 12 months (up to the panel stage) and one year and three months (if there is appeal).

Besides the complainant and the respondent other Members with a substantial interest on the matter in dispute may participate as "third parties" during the whole process and enjoy some rights. To participate in consultations, they require to have a substantial trade interest (imposes a higher standard than substantial interest - the latter is requested to participate in the panel stage) and the approval of the party to which the request for consultations was addressed.

The last stage concerns the implementation of the reports of the adjudicating bodies, after their adoption by the DSB, which maintains surveillance of the implementation of the rulings until their compliance. If immediate compliance is not possible, the respondent has a reasonable period of time to comply. The DSU provides to the complainant remedies applicable in case of non compliance with the reports: trade compensation and suspension of concessions. The suspension of concessions is a remedy of last resort, which has been used only in few occasions. These remedies are only temporary since the main objective of the system is to secure the withdrawal of the measure found inconsistent with the WTO covered Agreements.

PROPOSED ANSWERS

1. The WTO dispute settlement system aims to:
 - provide security and predictability to the MTS by enforcing the rule of law;
 - preserve the rights and obligations of WTO Members through a mechanism to enforce those rights;
 - clarify rights and obligations through interpretation when there is no clarity on the rules; and,
 - promote mutually agreed solutions and secure prompt solution to a dispute.
2. No. Only WTO Member governments have access to the WTO dispute settlement system. They can take part either as a "party" or as "third parties". The DSU refers to the Member bringing a dispute as the "complaining party" or the "complainant" while the terms "respondent" or "defendant" are commonly used to refer to the Member whose measure is being challenged in the dispute. A WTO Member that is neither complainant nor the respondent may be interested in the matter to a dispute and participate as third party. Third parties may participate in the different stages of the procedure and enjoy some rights (e.g. an opportunity to be heard by panels and to make written submissions provided they have a substantial interest in the matter). If a third party considers that the measure at issue nullifies or impairs the benefits accruing to it, it may make its own request for the establishment of a panel.
3. The Dispute Settlement Body (the DSB - the General Council in another guise), which consists of all WTO Members, is responsible for overseeing the entire dispute settlement process. Furthermore, the DSB has the sole authority to establish "panels" of experts to consider the case, and to adopt the reports of the adjudicative bodies (panels and Appellate Body). It monitors the implementation of the rulings and recommendations, and has the power to authorize the suspension of benefits when a country does not comply with a ruling.

Panels and the Appellate Body are the bodies adjudicating a WTO dispute. The panel is like a first instance court which makes findings on facts and legal issues, while the Appellate Body, which is the second and final stage in the adjudicatory part of the dispute settlement system, is established to review the legal aspects of the reports issued by panels. Unlike panels, which are composed for each dispute, the Appellate Body is a permanent body. The WTO Secretariat provides technical assistance and administrative support to panels and to the Appellate Body, as well as administrative support to the DSU. It also provides additional legal advice and special training courses on dispute settlement to developing Members.
4. The DSU applies to all disputes brought under the "covered Agreements" as listed in Appendix 1 of the DSU, which includes the Agreement Establishing the WTO, as well as all the Agreements annexed thereto (GATT 1994, GATS, TRIPS, DSU and Plurilateral Agreements). Many matters brought before the DSB include alleged violations of more than one covered Agreement.

However, there are two exceptions to the general application of the DSU. First, in cases where there are so-called "special and additional rules and procedures" on dispute settlement contained in the covered Agreements, which take preference over the rules in the DSU in case of conflict between the two. Second, although the Plurilateral Trade Agreements contained in Annex 4 to the Agreement Establishing the WTO are part of the covered Agreement within the coverage of the DSU, the applicability of the DSU to the Plurilateral Trade Agreements is subject to the adoption of a decision by the parties to each of these agreements setting out the terms for the application of the DSU to the individual agreement, including any special and additional rules or procedures.

5. There are three main stages to the WTO dispute settlement process:
 - i) Consultations between the parties with a view to reach a mutually agree solution consistent with the WTO Agreements;
 - ii) Adjudication by panels and, if applicable, by the Appellate Body; and,
 - iii) Implementation of the ruling, which includes the possibility of countermeasures in the event of failure by the losing party to implement the ruling.

6. Consultations give the parties an opportunity to discuss the matter and to find a satisfactory solution without resorting to litigation. It is a compulsory stage of settling a WTO dispute. The request for consultations made by the complaining Member formally initiates a dispute in the WTO. The complaining Member must address a request for consultations to the responding Member, and also notify such request to the DSB and to relevant Councils and Committees overseeing the covered Agreement(s) in question. If consultations help the parties reach mutually agreed solution to the dispute, the dispute settlement process ends. However, either where the respondent fails to reply to the request and enter into consultations in good faith or consultations took place but fail to settle the dispute, the complaining Member can request for the establishment of a panel to settle the dispute.

7. The adjudicating stage involves the panel stage and, in case of appeal of the panel report, the Appellate Review stage.
 - The panel stage starts with the submission of the request for the establishment of a panel by the complaining Member. Then a panel will normally be established at the second DSB meeting where the request is made unless the DSB decides by consensus not to do so. It is followed by the selection of panellists (3 or up to 5) well-qualified individuals who shall meet certain requirements in terms of expertise and independence. The parties are then required to present their cases and arguments in writing and orally at the first and second oral hearing. The panel will then issue its report containing its findings and conclusions. The panel report will be circulated to all WTO Members and adopted within 60 days (but no earlier than 20 days) after its circulation, unless a DSB consensus rejects it or either party to the dispute appeals the report.
 - The Appellate Body stage starts with the submission of a notification of decision to appeal to the DSB by either party to the dispute before the adoption of the panel report. The Appellate Body is limited to review issues of law covered in the panel report and legal interpretations developed by the panel. The appellant and the appellee are required to exchange their allegations and rebuttals, and to answer questions posed by the Appellate Body during an oral hearing. The Appellate Body will then prepare its final report, which will be circulated to all WTO Members and thereafter adopted with the panel report by the DSB unless there is a consensus not to do so. The Appellate Body may uphold, modify or reverse the legal findings and conclusions of the panel.

8. In case the measure at issue in the dispute is found to be inconsistent with WTO law, the respondent is required to bring the measure into compliance. If immediate compliance is not possible, the reasonable

period of time for implementation can be agreed upon the parties or be decided by an arbitrator. After the lapse of the reasonable period of time for implementation, if there is disagreement among the parties regarding the implementation of the report, the complaining party may request the establishment of a compliance panel to decide whether the measure implemented complies with the rulings. If the respondent persists with the non-compliance, a compensation may be agreed by the parties. If there is no agreement on a satisfactory compensation, the complainant is entitled to request to the DSB permission for the suspension of concessions or other obligations to the other party up to a level equivalent to the level of nullification or impairment caused by the measure at issue.

9. The existence of a compulsory multilateral dispute settlement system constitutes a significant benefit for all WTO Members, particularly for developing country Members. A dispute settlement mechanism to which all Members have equal access, the decisions are made on the basis of rules rather than on the basis of economic power, and which decisions are binding (after their quasi-automatic adoption) empowers developing countries and small economies by placing "the weak" on a more equal footing with "the strong". The ability of developing Members to make effective use of the dispute settlement system is essential for them to be able to reap the full benefits they are entitled to under the WTO Agreements.

Videos

Interview: the Dispute Settlement System -

http://WTO.http.internapcdn.net/WTO/flash/2012_07_03_itv_jackson.mp4

Case studies of WTO dispute settlement -

http://WTO.http.internapcdn.net/WTO/flash/1999_intro_dispute_e.mp4

30 years of settling disputes in the multilateral trading system -

http://WTO.http.internapcdn.net/WTO/flash/2012_06_28_lad2.mp4

Other videos - <http://www.youtube.com/user/WTO>