

List of definitions of key terms relevant for the WTO dispute resolution

- **Appellate Body** is a permanent body of seven members entrusted with the task of reviewing the legal aspects of the reports issued by panels. The Appellate Body is thus the second and final stage in the adjudicatory part of the dispute settlement system. As it did not exist in the old dispute settlement system under GATT 1947, the addition of this second adjudicatory stage was one of the major innovations of the Uruguay Round of Multilateral Trade Negotiations.
- **Appellate report.** Only the parties to the dispute, not the third parties, can appeal the panel report (both the “winning” and the “losing” party). Appeals are limited to legal questions. They may only address issues of law covered in the panel report and legal interpretations developed by the panel. An appeal cannot address the facts on which the panel report is based.
- **Arbitrators** In addition to panels and the Appellate Body, arbitrators, either as individuals or as groups, can be called to adjudicate certain questions at several stages of the dispute settlement process. Arbitration is available as an alternative to dispute resolution by panels and the Appellate Body, although it is a possibility that has so far very rarely been used. Arbitration results are not appealable but can be enforced through the DSU.
- **Consultation** is the first stage of formal dispute settlement. They give the parties an opportunity to discuss the matter and to find a satisfactory solution without resorting to litigation. Only after such mandatory consultations have failed to produce a satisfactory solution within 60 days may the complainant request adjudication by a panel.
- **“Covered persons”** a term which, according to the Rules of Conduct, include panel members, Appellate Body members, experts assisting panels, arbitrators, members of the Textile Monitoring Body, and (WTO) Secretariat and Appellate Body Secretariat staff.
- **Dispute Settlement Understanding (DSU)** is a legal text containing the rules for dispute settlement in the WTO.
- **Experts.** Where a panel considers it necessary to consult experts in order to discharge its duty to make an objective assessment of the facts, it may consult either individual experts or appoint an expert review group to prepare an advisory report. Expert review groups perform their duties under the panel’s authority and report to the panel. The panel determines their terms of reference and detailed working procedures. The final reports of expert review groups are issued to the parties to the dispute when submitted to the panel. Expert review groups only have an advisory role.
- **Implementation report** by losing party of proposed implementation within ‘reasonable period of time’
- **Panel report** a document which contains the findings and conclusions ruling on the substance of the dispute, it only becomes binding when the DSB has adopted it.
- **Panels** are the quasi-judicial bodies, in a way tribunals, in charge of adjudicating disputes between Members in the first instance. They are normally composed of three, and exceptionally five, experts selected on an ad hoc basis. The panel composed for a specific dispute must review the factual and legal aspects of the case and submit a report to the DSB in which it expresses its conclusions as to whether the claims of the complainant are well founded and the measures or actions being challenged are WTO-inconsistent.
- **Retaliation** is a measure pending full implementation authorized by DSB if no agreement on compensation.

- **Rules of Conduct** an instrument adopted by the DSB which aim at guaranteeing the integrity, impartiality and confidentiality of the dispute settlement system. The Rules of Conduct are applicable to all “covered persons”. 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 dispute settlement proceedings.
- **The Director General of the (WTO)** may, acting in an ex officio capacity, offer his/her good offices, conciliation or mediation with a view to assisting Members to settle a dispute. In a dispute settlement procedure involving a least-developed country Member, when a satisfactory solution has not been found during consultations, the Director-General will, upon request by the least-developed country Member, offer his or her good offices, conciliation or mediation. The Director-General convenes the meetings of the DSB and appoints panel members upon the request of either party, and in consultation with the Chairman of the DSB and the Chairman of the relevant Council or Committee, where the parties cannot agree on the composition within 20 days. In some cases the Director-General also appoints the arbitrator(s) for the determination of the reasonable period of time for implementation.
- **The Dispute Settlement Body (DSB)** is responsible for administering the DSU, i.e. for overseeing the entire dispute settlement process which consists of all WTO members. The DSB has the sole authority to establish “panels” of experts to consider the case, and to accept or reject the panels’ findings or the results of an appeal. It monitors the implementation of the rulings and recommendations, and has the power to authorize retaliation when a country does not comply with ruling.
- **The WTO Secretariat** The staff of the WTO Secretariat, which reports to the Director-General, assists Members in respect of dispute settlement at their request, conducts special training courses and provides additional legal advice and assistance to developing country Members in matters relating to dispute settlement within the parameters of impartiality called for by Article 27.2 of the DSU. The Secretariat also assists parties in composing panels by proposing nominations for potential panelists to hear the dispute, assists panels once they are composed, and provides administrative support for the DSB.
- **Third party** is any Member having a substantial interest in a matter of before a panel should notify its interest to the DSB. Such a Member will have an opportunity to be heard by the panel and to make written submission to the panel. Such third party submissions will be given to the party to the dispute and will also be reflected in the panel report.

Further provisions on “consultation and dispute settlement” are:

- The Agreement on Agriculture (entered into force January on 1, 1995) – Article 19;
- The Agreement on the Application of Sanitary and Phytosanitary Measures (entered into force on January 1, 1995) – Article 11;
- The Agreement on Implementation of Article VI of GATT 1994 (entered into force on January 1, 1995) – Article 17;
- The Agreement on Implementation of Article VII of GATT 1994 (entered into force on January 1, 1995) – Article 19;
- The Agreement on Import Licensing Procedures(entered into force on January 1, 1995) – Article 6;
- The Agreement on Preshipment Inspection(entered into force on January 1, 1995) – Articles 7 and 8;

- The Agreement on Rules of Origin(entered into force on January 1, 1995) – Articles 7 and 8;
- The Agreement on Safeguards(entered into force on January 1, 1995) – Article 14;
- The Agreement on Subsidies and Countervailing Measures(entered into force on January 1, 1995) – Articles 4 and 30;
- The Agreement on Technical Barriers to Trade (entered into force on January 1, 1995) – Article 14;
- The Agreement on Textiles and Clothing (entered into force on January 1, 1995 ; terminated on January 1, 1995)– Article 8.10;
- The Agreement on Trade-Related Aspects of Intellectual Property Rights (entered into force on January 1, 1995) – Article 64;
- The Agreement on Trade-Related Investment Measures(entered into force on January 1, 1995) – Article 8;
- The General Agreement on Tariffs and Trade 1994 (entered into force on January 1, 1995) – Articles XXII and XXIII;
- The General Agreement on Trade in Services (entered into force on January 1, 1995) – Articles XXII and XXIII.