



## Trade Guide: WTO DSU

# WTO DISPUTE SETTLEMENT UNDERSTANDING

### What is this Agreement and what does it do?

The Dispute Settlement Understanding of the World Trade Organization (WTO) establishes a set of rules and procedures and provides a forum for resolving trade disputes between WTO member countries. When disputes cannot be resolved, the Understanding authorizes the use of trade sanctions against the member country that has been found in violation of a WTO agreement.

All [WTO members \(offsite link\)](#) are parties to this Agreement.

This Agreement went into effect on January 1, 1995.

### Who benefits from this Agreement?

A U.S. company conducting international business who believes that another [WTO-member country \(offsite link\)](#) is not complying with its obligations under a [WTO Agreement \(offsite link\)](#) can benefit from this Dispute Settlement Understanding.

Individual exporters cannot take their trade complaints directly to the World Trade Organization. They must work through their own governments.

### How can this Agreement help my company?

The U.S. Government has used the WTO's dispute settlement process on many occasions on behalf of U.S. companies, and it has usually succeeded in obtaining the removal of the contested trade barrier. [Cases \(offsite link\)](#) in which the Dispute Settlement Understanding has been successfully invoked to protect the rights and interests of American companies have included disputes involving agricultural products, manufactured goods and intellectual property (e.g. films and sound recordings).

The dispute settlement process relies initially on consultations between the governments involved. If these consultations fail, the case can go before a dispute settlement panel. (At any point in the process, the parties can settle their differences and terminate the proceedings.) After hearing both sides present their arguments, the panel issues a report which includes its findings on whether the contested measure is consistent with WTO obligations. The report also includes the panel's recommendations. As a last resort, the Dispute Settlement Understanding authorizes the complaining countries to use trade-related sanctions against WTO member

countries that have been found to be in violation of a WTO agreement.

## **How does the WTO dispute settlement process work?**

Here, in more detail, is how the WTO dispute settlement process works:

First, the complaining party requests formal consultations with the other WTO member country (or countries) involved in the dispute. All such requests for formal consultations must be notified to the WTO's Dispute Settlement Body (DSB), which consists of representatives from all WTO member countries and administers the rules and procedures governing the dispute settlement process.

The consultation period can last up to 60 days. If the consultations fail to resolve the problem, the complaining party can then request that the DSB establish a panel of experts to adjudicate the merits of the case. Panelists are normally selected in consultation with the parties to the dispute. If the parties cannot agree on panelists, the WTO will appoint them. The panel selection process can take up to 45 days.

The panel process in many ways resembles a typical court case. Both parties to the dispute submit written briefs and present oral arguments before the panel. After hearing arguments from both sides and after examining all the evidence, the panel makes its decision and prepares a draft report which is reviewed by both parties to the dispute, who are given an opportunity to comment on it. The panel then issues its final report, which includes its findings and recommendations. The final report should be issued, as a general rule, within six months of the start of the proceedings.

Parties to a dispute have the right to appeal a panel's decision. This appellate process must be completed within 90 days. Appeals are heard by a separate group of experts, who review issues of law covered in the panel report and then issue their own report with their own findings and recommendations. In all, it can take about 15 months to settle a dispute in the WTO.

A party that loses a case in the WTO is supposed to follow the recommendations of the panel report (or the appellate report if the case has been appealed), and it must also state whether it intends to follow the panel's recommendations at a meeting of the DSB. If the party found in violation of a WTO agreement cannot immediately comply with the panels' recommendations, it will be given a "reasonable period of time" to comply (usually no longer than 15 months).

If the losing party fails to comply with the panel's recommendations within the allotted time, it must enter into consultations with the winning party to seek agreement on compensation. Compensation may be granted in a variety of ways (e.g., tariff reductions or the lifting of quotas on certain products). If an agreement on compensation cannot be reached within 20 days of the expiration of the allotted time, then the DSB can authorize the winning party to apply equivalent trade sanctions (e.g., increased tariffs) against the losing party.

## **Can the U.S. Government help me if I have a problem?**

Yes. If you experience any difficulties exporting because of an action taken by a WTO Member in an area covered by a WTO Agreement, contact the Office of Trade Agreements Negotiation and Compliance (TANC) at the U.S. Department of Commerce via our public hotline.

TANC provide you with information and assistance. The U.S. Government cannot guarantee that your problem can be solved, but it can, if appropriate, either discuss the particular facts of your situation with the government

of the other country involved or raise the matter in an appropriate international forum, like the WTO.

## How can I get more information?

The complete text of the WTO Dispute Settlement Understanding is available from the Office of Trade Agreements Negotiations and Compliance's [WTO Agreements database](#).

If you have questions about this Agreement or how to use it, you can [e-mail](#) the Office of Trade Agreements Negotiations and Compliance, which will forward your message to the Commerce Department's Designated Monitoring Officer for the Agreement. You can also contact the Designated Monitoring Officer at the following address:

Designated Monitoring Officer -

WTO Dispute Settlement Understanding

Trade Agreements Negotiations and Compliance

Enforcement and Compliance

International Trade Administration

U.S. Department of Commerce

14th Street & Constitution Avenue, N.W.

Washington, D.C. 20230

Tel: (202) 482-0375

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You can also visit the [World Trade Organization's Home Page \(offsite link\)](#) where you can obtain additional information not only on the WTO Dispute Settlement Understanding Agreement, but also on cases that have been brought to the WTO Dispute Settlement Body by the United States and other countries.