

**“Dealing with international trade  
disputes to protect Indonesia’s rights in  
international trade”**



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# Indonesia involves in WTO Dispute Settelement



- **As Complainant: 10 Cases**
- **As Respondent: 14 Cases**
- **As Third party: 18 Cases**

# Understanding on the Rules and Procedures Governing the Settlement of Disputes (DSU)



- Main objective of DSU is a central element to provide security and predictability to the multilateral trading system.

## Structure of WTO DS:

- Dispute Settlement Body
- Panel, Appellate Body and Arbitration
- WTO Secretariat

# Trade Dispute



- Basic Rationale for a WTO member to challenge other WTO member is “Nullification and impairment of trade benefit under the WTO Agreements”
- a trade policy measure or some trade actions which are considered nullifying or impairing other WTO Members

# Basic Claim



- Violation base
- Non-violation
- The existent any other situation

designed to be used in situation such as macro economy emergencies i.e. general depressions, high unemployment, commodity price collapses, balance of payment difficulties.

# Procedures



- **Consultation (60 days)**

The consultation is a preliminary stage to identify with the legal basis of claim and facts. It serves a very valuable function and seems to work quiet well for cases that do not go on to Panel and Appellate process.

- **Good Offices, Conciliation and Mediation**

Good offices, conciliation and mediation are procedures that are undertaken voluntarily if the parties to the dispute so agree



- **Panel (6 months)**

Function:

1. to assist the DSB in discharging its responsibilities under DSU and WTO Agreements
2. make an objective assessment of the matter before it, including the facts of the case and the applicability of and conformity with the relevant covered agreements,
3. make such findings
4. Consult with third party (*amicu curiae*)
5. Panels should consult regularly with the parties to the dispute and give them adequate opportunity to develop a mutually satisfactory solution.



- **Appellate Body (90 days)**

Function:

To uphold, modify or reverse the legal findings and conclusions of the panel.





- **Panel and Appellate Body Recommendations**

the panel and Appellate Body cannot add to or diminish the rights and obligations provided in the covered agreements.

- **DSB Decision and Rulings**

DSB shall adopt Panel and Appellate Body Recommendation in 9 month if not appeal and 12 month if appeal. Once it adopted, it become DSB Decision and Rulings. For developing countries is up to 15 months

# Compliance of DSB Recommendation and Rulings



- Prompt compliance with recommendations or rulings of the DSB is essential in order to ensure effective resolution of disputes to the benefit of all Members.

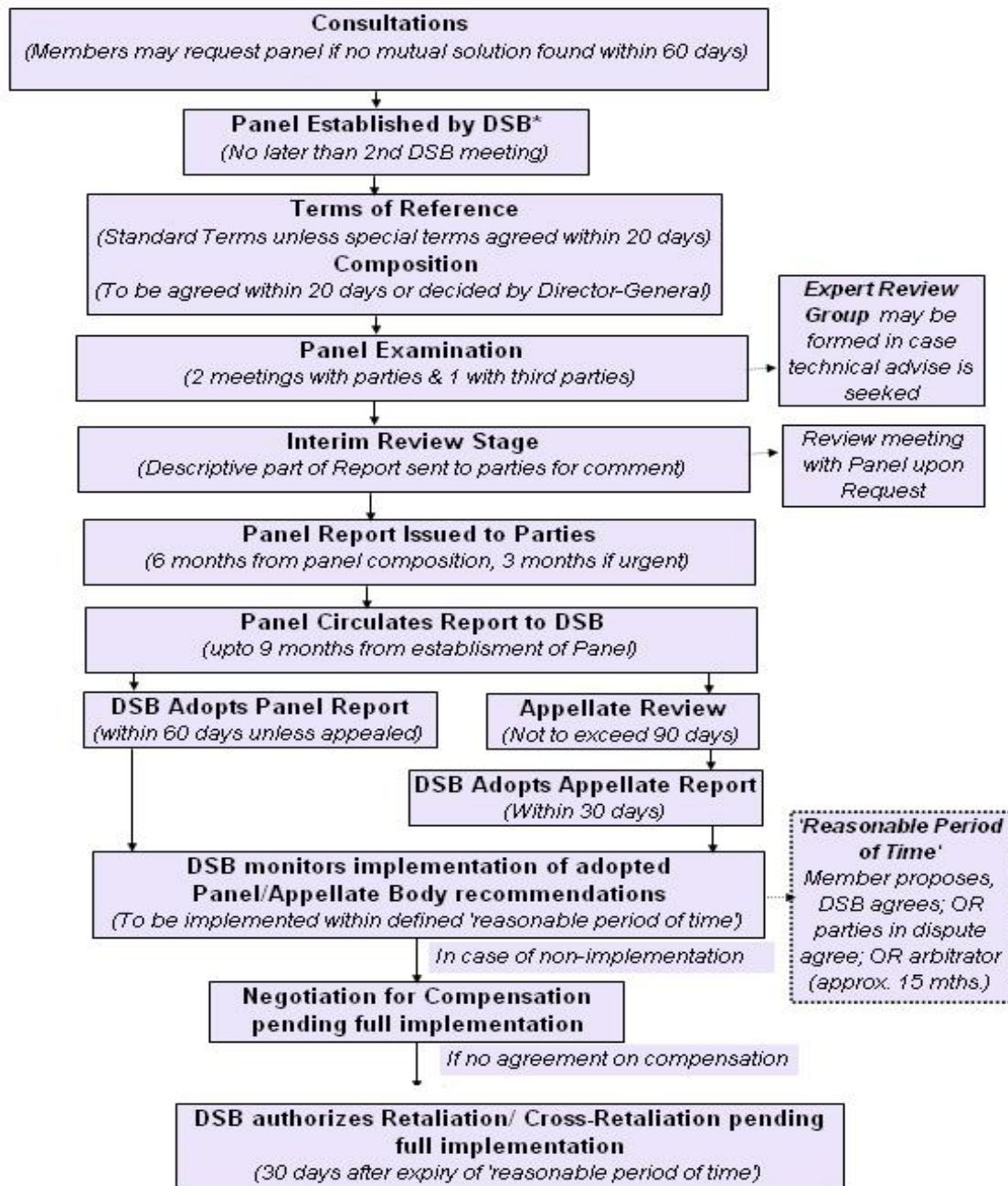
# Non Compliance



- Negotiation Compensation
- Seek authorization to imply retaliation

## Retaliation:

- Increase tariff up to 100%
- Suspension of other obligation e.g. TRIPS or GATS



\* Dispute Settlement Board