

1 ARTICLE 17	1
1.1 Text of Article 17	1
1.2 Article 17.1: Establishment of the Appellate Body	2
1.3 Article 17.2	2
1.3.1 Appointment of Members of the Appellate Body	2
1.4 Article 17.4	4
1.5 Article 17.9: Working Procedures	5
1.6 Article 17.14	5

1 ARTICLE 17

1.1 Text of Article 17

Article 17

Appellate Review

Standing Appellate Body

1. A standing Appellate Body shall be established by the DSB. The Appellate Body shall hear appeals from panel cases. It shall be composed of seven persons, three of whom shall serve on any one case. Persons serving on the Appellate Body shall serve in rotation. Such rotation shall be determined in the working procedures of the Appellate Body.

2. The DSB shall appoint persons to serve on the Appellate Body for a four-year term, and each person may be reappointed once. However, the terms of three of the seven persons appointed immediately after the entry into force of the WTO Agreement shall expire at the end of two years, to be determined by lot. Vacancies shall be filled as they arise. A person appointed to replace a person whose term of office has not expired shall hold office for the remainder of the predecessor's term.

3. The Appellate Body shall comprise persons of recognized authority, with demonstrated expertise in law, international trade and the subject matter of the covered agreements generally. They shall be unaffiliated with any government. The Appellate Body membership shall be broadly representative of membership in the WTO. All persons serving on the Appellate Body shall be available at all times and on short notice, and shall stay abreast of dispute settlement activities and other relevant activities of the WTO. They shall not participate in the consideration of any disputes that would create a direct or indirect conflict of interest.

4. 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 pursuant to paragraph 2 of Article 10 may make written submissions to, and be given an opportunity to be heard by, the Appellate Body.

5. As a general rule, the proceedings shall not exceed 60 days from the date a party to the dispute formally notifies its decision to appeal to the date the Appellate Body circulates its report. In fixing its timetable the Appellate Body shall take into account the provisions of paragraph 9 of Article 4, if relevant. When the Appellate Body considers that it cannot provide its report within 60 days, it shall inform the DSB in writing of the reasons for the delay together with an estimate of the period within which it will submit its report. In no case shall the proceedings exceed 90 days.

6. An appeal shall be limited to issues of law covered in the panel report and legal interpretations developed by the panel.

7. The Appellate Body shall be provided with appropriate administrative and legal support as it requires.

8. The expenses of persons serving on the Appellate Body, including travel and subsistence allowance, shall be met from the WTO budget in accordance with criteria to be adopted by the General Council, based on recommendations of the Committee on Budget, Finance and Administration.

Procedures for Appellate Review

9. Working procedures shall be drawn up by the Appellate Body in consultation with the Chairman of the DSB and the Director-General, and communicated to the Members for their information.

10. The proceedings of the Appellate Body shall be confidential. The reports of the Appellate Body shall be drafted without the presence of the parties to the dispute and in the light of the information provided and the statements made.

11. Opinions expressed in the Appellate Body report by individuals serving on the Appellate Body shall be anonymous.

12. The Appellate Body shall address each of the issues raised in accordance with paragraph 6 during the appellate proceeding.

13. The Appellate Body may uphold, modify or reverse the legal findings and conclusions of the panel.

Adoption of Appellate Body Reports

14. An Appellate Body report shall 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 the Members.⁸ This adoption procedure is without prejudice to the right of Members to express their views on an Appellate Body report.

(footnote original) ⁸ If a meeting of the DSB is not scheduled during this period, such a meeting of the DSB shall be held for this purpose.

1.2 Article 17.1: Establishment of the Appellate Body

1. At its meeting of 10 February 1995, the DSB established the Appellate Body in accordance with Article 17.1 of the DSU.¹

1.3 Article 17.2

1.3.1 Appointment of Members of the Appellate Body

2. On 6 December 1994, the Preparatory Committee to the WTO approved its recommendations for the procedures for the appointment of Appellate Body Members.²

3. The following table provides information on the individuals appointed to serve as Appellate Body Members. It is updated to January 2018.

Name	Nationality	Term(s) of office	Potential term(s) as Chairperson
Said El-Naggar	Egypt	1995–2000	7 February 1999 – 6 February 2000

¹ WT/DSB/M/1.

² PC/IPL/13.

WTO ANALYTICAL INDEX
DSU – Article 17 (Practice)

Mitsuo Matsushita	Japan	1995–2000	
Christopher Beeby	New Zealand	1995–2000	7 February 1998 – 6 February 1999
Claus-Dieter Ehlermann	Germany	1995–2001	7 February 2001 – 10 December 2001
Florentino Feliciano	Philippines	1995–2001	7 February 2000 – 6 February 2001
Julio Lacarte-Muró	Uruguay	1995–2001	7 February 1996 – 6 February 1997 7 February 1997 – 6 February 1998
James Bacchus	United States	1995–2003	15 December 2001 – 14 December 2002 15 December 2002 – 10 December 2003
John Lockhart	Australia	2001–2006	
Yasuhei Taniguchi	Japan	2000–2007	17 December 2004 – 16 December 2005
Merit E. Janow	United States	2003–2007	
Arumugamangalam Venkatatchalam Ganesan	India	2000–2008	17 December 2005 – 16 December 2006
Georges Michel Abi-Saab	Egypt	2000–2008	13 December 2003 – 12 December 2004
Luiz Olavo Baptista	Brazil	2001–2009	17 December 2007 – 16 December 2008
Giorgio Sacerdoti	Italy	2001–2009	17 December 2006 – 16 December 2007
David Unterhalter	South Africa	2006–2013	18 December 2008 – 11 December 2009 12 December 2009 – 16 December 2010
Lilia R. Bautista	Philippines	2007–2011	17 December 2010 – 14 June 2011
Jennifer Hillman	United States	2007–2011	15 June 2011 – 10 December 2011
Shotaro Oshima	Japan	2008–2012	
Yuejiao Zhang	China	2008–2012 2012–2015	11 December 2010 – 31 May 2012 1 June 2012 – 31 December 2012
Ricardo Ramírez-Hernández	Mexico	2009–2013 2013–2017	1 January 2013 – 31 December 2013 1 January 2014 – 31 December 2014
Peter Van den Bossche	Belgium	2009–2013 2013–2017	1 January 2015 – 31 December 2015
Ujal Singh Bhatia	India	2011–2015 2015–2019	2 January 2017 – 31 December 2017
Thomas R. Graham	United States	2011–2015 2015–2019	1 January 2016 – 31 December 2016
Seung Wha Chang	Korea	2012–2016	

Shree Baboo Chekitan Servansing	Mauritius	2014–2018	
Hyun Chong Kim	Korea	2016–2017	
Hong Zhao	China	2016–2020	

1.4 Article 17.4

4. The following table provides information on the number and percentage of panel reports appealed. This table covers both original panel proceedings, as well as Article 21.5 proceedings. It is updated to January 2018.

Year of adoption	All panel reports			Panel reports other than Article 21.5 reports ³			Article 21.5 panel reports		
	Panel reports adopted ⁴	Panel reports appealed ⁵	Percentage appealed ⁶	Panel reports adopted	Panel reports appealed	Percentage appealed	Panel reports adopted	Panel reports appealed	Percentage appealed
1996	2	2	100%	2	2	100%	0	0	–
1997	5	5	100%	5	5	100%	0	0	–
1998	12	9	75%	12	9	75%	0	0	–
1999	10	7	70%	9	7	78%	1	0	0%
2000	19	11	58%	15	9	60%	4	2	50%
2001	17	12	71%	13	9	69%	4	3	75%
2002	12	6	50%	11	5	45%	1	1	100%
2003	10	7	70%	8	5	63%	2	2	100%
2004	8	6	75%	8	6	75%	0	0	–
2005	20	12	60%	17	11	65%	3	1	33%
2006	7	6	86%	4	3	75%	3	3	100%
2007	10	5	50%	6	3	50%	4	2	50%
2008	11	9	82%	8	6	75%	3	3	100%
2009	8	6	75%	6	4	67%	2	2	100%
2010	5	2	40%	5	2	40%	0	0	–
2011	8	5	63%	8	5	63%	0	0	–
2012	18	11	61%	18	11	61%	0	0	–
2013	4	2	50%	4	2	50%	0	0	–
2014	15	13	87%	13	11	85%	2	2	100%

³ Under Article 21.5 of the DSU, a panel may be established to hear a "disagreement as to the existence or consistency with a covered agreement of measures taken to comply with the recommendations and rulings" of the DSB upon the adoption of a previous panel or Appellate Body report.

⁴ The Panel Reports in *EC – Bananas III (Ecuador)*, *EC – Bananas III (Guatemala and Honduras)*, *EC – Bananas III (Mexico)*, and *EC – Bananas III (US)* are counted as a single panel report. The Panel Reports in *US – Steel Safeguards*, in *EC – Export Subsidies on Sugar*, and in *EC – Chicken Cuts*, are also counted as single panel reports in each of those disputes.

⁵ Panel reports are counted as having been appealed where they are adopted as upheld, modified, or reversed by an Appellate Body report. The number of panel reports appealed may differ from the number of Appellate Body reports because some Appellate Body reports address more than one panel report.

⁶ Percentages are rounded to the nearest whole number.

2015	13	8	62%	11	6	55%	2	2	100%
2016	8	8	100%	6	6	100%	2	1	50%
2017	9	8	89%	9	6	67%	0	2	100%
Total	231	160	70%	198	133	68%	33	26	79%

1.5 Article 17.9: Working Procedures

5. The current Working Procedures for Appellate Review were issued in 2010 are contained in document WT/AB/WP/6. See the documents on Working Procedures for Appellate Review (Practice).

6. In addition, at the DSB meeting held on 25 March 2015, the Chairman made a statement regarding a communication from the Appellate Body⁷ concerning guidelines for WTO Members in connection with the submission of executive summaries of written submissions in appellate proceedings.⁸

1.6 Article 17.14

7. The following table provides information on the length of time taken in WTO proceedings from the date of the circulation of the Appellate Body report to the date of its adoption.⁹ It is updated to 1 February 2018.

WT/DS No.	Dispute Short Title	Days from circulation to adoption
WT/DS2, WT/DS4	<i>US – Gasoline</i>	21 days
WT/DS8, WT/DS10, WT/DS11	<i>Japan – Alcoholic Beverages II</i>	28 days
WT/DS18	<i>Australia – Salmon</i>	17 days
WT/DS22	<i>Brazil – Desiccated Coconut</i>	27 days
WT/DS24	<i>US – Underwear</i>	15 days
WT/DS26	<i>EC – Hormones</i>	28 days
WT/DS27	<i>EC – Bananas III</i>	16 days
WT/DS31	<i>Canada – Periodicals</i>	30 days
WT/DS33	<i>US – Wool Shirts and Blouses</i>	28 days
WT/DS34	<i>Turkey – Textiles</i>	28 days
WT/DS46	<i>Brazil – Aircraft</i>	18 days
WT/DS48	<i>EC – Hormones</i>	28 days
WT/DS50	<i>India – Patents (US)</i>	28 days
WT/DS56	<i>Argentina – Textiles and Apparel</i>	26 days
WT/DS58	<i>US – Shrimp</i>	25 days
WT/DS60	<i>Guatemala – Cement I</i>	23 days

⁷ WT/AB/23.

⁸ WT/DSB/67, para. 11.3; WT/DSB/M/359.

⁹ This table excludes cases in which an appeal was filed and then withdrawn. It does not cover Article 21.5 proceedings.

WTO ANALYTICAL INDEX
DSU – Article 17 (Practice)

WT/DS62, WT/DS67, WT/DS68	<i>EC – Computer Equipment</i>	17 days
WT/DS69	<i>EC – Poultry</i>	10 days
WT/DS70	<i>Canada – Aircraft</i>	18 days
WT/DS75, WT/DS84	<i>Korea – Alcoholic Beverages</i>	30 days
WT/DS76	<i>Japan – Agricultural Products II</i>	25 days
WT/DS87, WT/DS110	<i>Chile – Alcoholic Beverages</i>	30 days
WT/DS90	<i>India – Quantitative Restrictions</i>	30 days
WT/DS98	<i>Korea – Dairy</i>	29 days
WT/DS103,WT/DS113	<i>Canada – Dairy</i>	14 days
WT/DS108	<i>US – FSC</i>	25 days
WT/DS121	<i>Argentina – Footwear (EC)</i>	29 days
WT/DS122	<i>Thailand – H-Beams</i>	24 days
WT/DS135	<i>EC – Asbestos</i>	24 days
WT/DS136	<i>US – 1916 Act</i>	29 days
WT/DS138	<i>US – Lead and Bismuth II</i>	28 days
WT/DS139, WT/DS142	<i>Canada – Autos</i>	19 days
WT/DS141	<i>EC – Bed Linen</i>	11 days
WT/DS146, WT/DS175	<i>India – Autos</i>	17 days
WT/DS161, WT/DS169	<i>Korea – Various Measures on Beef</i>	30 days
WT/DS162	<i>US – Anti-Dumping Act of 1916</i>	29 days
WT/DS165	<i>US – Certain EC Products</i>	30 days
WT/DS166	<i>US – Wheat Gluten</i>	28 days
WT/DS170	<i>Canada – Patent Term</i>	24 days
WT/DS176	<i>US – Section 211 Appropriations Act</i>	30 days
WT/DS177, WT/DS178	<i>US – Lamb</i>	15 days
WT/DS184	<i>US – Hot-Rolled Steel</i>	30 days
WT/DS192	<i>US – Cotton Yarn</i>	28 days
WT/DS202	<i>US – Line Pipe</i>	21 days
WT/DS207	<i>Chile – Price Band System</i>	30 days
WT/DS212	<i>US – Countervailing Measures on Certain EC Products</i>	30 days
WT/DS213	<i>US – Carbon Steel</i>	21 days
WT/DS217, WT/DS234	<i>US – Offset Act (Byrd Amendment)</i>	11 days
WT/DS219	<i>EC – Tube or Pipe Fittings</i>	27 days

WTO ANALYTICAL INDEX
DSU – Article 17 (Practice)

WT/DS231	<i>EC – Sardines</i>	27 days
WT/DS244	<i>US – Corrosion-Resistant Steel Sunset Review</i>	25 days
WT/DS245	<i>Japan – Apples</i>	14 days
WT/DS246	<i>EC – Tariff Preferences</i>	13 days
WT/DS248, WT/DS249, WT/DS251, WT/DS252, WT/DS253, WT/DS254, WT/DS258, WT/DS259	<i>US – Steel Safeguards</i>	30 days
WT/DS257	<i>US – Softwood Lumber IV</i>	29 days
WT/DS264	<i>US – Softwood Lumber V</i>	20 days
WT/DS265, WT/DS266, WT/DS283	<i>EC – Export Subsidies on Sugar</i>	21 days
WT/DS267	<i>US – Upland Cotton</i>	18 days
WT/DS268	<i>US – Oil Country Tubular Goods Sunset Review</i>	18 days
WT/DS269, WT/DS 286	<i>EC – Chicken Cuts</i>	15 days
WT/DS276	<i>Canada – Wheat Exports and Grain Imports</i>	28 days
WT/DS282	<i>US – Anti-Dumping Measures on Oil Country Tubular Goods</i>	26 days
WT/DS285	<i>US – Gambling</i>	13 days
WT/DS294	<i>US – Zeroing (EC)</i>	21 days
WT/DS295	<i>Mexico – Anti-Dumping Measures on Rice</i>	21 days
WT/DS296	<i>US – Countervailing Duty Investigation on DRAMs</i>	23 days
WT/DS302	<i>Dominican Republic – Import and Sale of Cigarettes</i>	24 days
WT/DS308	<i>Mexico – Taxes on Soft Drinks</i>	18 days
WT/DS315	<i>EC – Selected Customs Matters</i>	28 days
WT/DS316	<i>EC and certain member States – Large Civil Aircraft</i>	14 days
WT/DS320, WT/DS321	<i>US/Canada – Continued Suspension</i>	29 days
WT/DS322	<i>US – Zeroing (Japan)</i>	14 days
WT/DS332	<i>Brazil – Retreaded Tyres</i>	14 days
WT/DS336	<i>Japan – DRAMS (Korea)</i>	19 days
WT/DS339, WT/DS340, WT/DS342	<i>China – Auto Parts</i>	28 days
WT/DS343	<i>US – Shrimp (Thailand)</i>	16 days

WTO ANALYTICAL INDEX
DSU – Article 17 (Practice)

WT/DS344	<i>US –Stainless Steel (Mexico)</i>	20 days
WT/DS345	<i>US – Customs Bond Directive</i>	16 days
WT/DS350	<i>US – Continued Zeroing</i>	15 days
WT/DS360	<i>India – Additional Import Duties</i>	18 days
WT/DS363	<i>China – Publications and Audiovisual Products</i>	29 days
WT/DS367	<i>Australia – Apples</i>	18 days
WT/DS371	<i>Thailand – Cigarettes (Philippines)</i>	28 days
WT/DS379	<i>US – Anti-Dumping and Countervailing Duties (China)</i>	14 days
WT/DS397	<i>EC – Fasteners (China)</i>	13 days
WT/DS399	<i>US – Tyres (China)</i>	30 days
WT/DS400, WT/DS401	<i>EC – Seal Products</i>	27 days
WT/DS406	<i>U.S. - Clove Cigarettes</i>	20 days
WT/DS414	<i>China - GOES</i>	29 days
WT/DS412, WT/DS426	<i>Canada - Renewable Energy / Canada - Feed-In Tariff</i>	18 days
WT/DS429	<i>U.S. - Shrimp II (Viet Nam)</i>	29 days
WT/DS430	<i>India - Agricultural Products</i>	15 days
WT/DS431, WT/DS432, WT/DS433	<i>China - Rare Earths</i>	22 days
WT/DS436	<i>U.S. - Carbon Steel (India)</i>	11 days
WT/DS437	<i>U.S. - Countervailing Measures (China)</i>	29 days
WT/DS438, WT/DS444, WT/DS445	<i>Argentina - Import Measures</i>	11 days
WT/DS449	<i>U.S. - Countervailing and Anti-Dumping Measures (China)</i>	15 days
WT/DS453	<i>Argentina - Financial Services</i>	25 days
WT/DS454, WT/DS460	<i>China - HP-SSST</i>	14 days
WT/DS456	<i>India - Solar Cells</i>	28 days
WT/DS457	<i>Peru - Agricultural Products</i>	11 days
WT/DS461	<i>Colombia - Textiles</i>	11 days
WT/DS464	<i>U.S. - Washing Machines</i>	19 days
WT/DS471	<i>U.S. - Anti-Dumping Methodologies (China)</i>	11 days
WT/DS473	<i>EU - Biodiesel</i>	20 days
WT/DS475	<i>Russia - Pigs (EU)</i>	26 days

8. The following table provides information on the averages of the length of time taken in WTO proceedings from the date of the circulation of the Appellate Body report to the date of its adoption.

Average length of time between date of the circulation of the Appellate Body report to the date of its adoption	
Prescribed Time-Period in Article 17.14	20-30 days
Average to Date	23 days
Longest to Date	30 days
Shortest to Date	10 days

Current as of: February 2018