

Articles

SOME ISSUES IN IMPLEMENTING DSB RECOMMENDATIONS

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ABSTRACT

This paper illustrates some of the issues involved in implementing DSB recommendations. According to Article 22 of the DSU, the most appropriate way of implementing DSB recommendation is for the losing party to revoke or modify the measure in question to ensure the winning party will suffer no more nullification and impairment. In the case that the losing party does not implement DSB recommendations in a satisfactory way, the winning party can request for compensation and suspension of concession (retaliation). This suggests that the losing party may choose to implement DSB recommendations because non-implementation would incur retaliatory measures against them. However, after reviewing six exceptional WTO dispute cases in which the implementation of DSB recommendations is difficult, the author arrives at a conclusion that the losing parties implement the recommendations because of the notion of the legitimacy of WTO recommendations entertained by WTO Members in general. Meanwhile, retaliation to be authorized by the DSB remains the last resort in cases of recalcitrant non-obedience.

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KEYWORDS: *DSB recommendation, implementation period, suspension of concession, retaliation, the Hormones Case, risk assessment, risk management, cross-retaliation, the Banana Case*