



ASEAN DISPUTE SETTLEMENT SYSTEM

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FACT SHEET

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The entry into force of the ASEAN Charter on 15 December 2008 gives ASEAN a legal personality and transforms it into a more rules-based organisation. To ensure compliance to agreed rules and obligations among ASEAN Member States (AMS), it is necessary to institute a dispute settlement process.

In ASEAN, disputes of an economic nature are resolved in various ways.

1. **The advisory stage.** Private individuals and businesses may encounter problems because of non-compliance with ASEAN commitments in their home country or other AMS. They can have those problems resolved on a legally non-binding basis within a relatively short period through the ASEAN Consultation to Solve Trade and Investment Issues, an internet-based instrument, which is adapted from the EU SOLVIT mechanism.

Alternatively, on request from AMS, the Agreements and Compliance Unit (ACU) of the ASEAN Secretariat can offer non-binding legal interpretations and advice on potential economic disputes. In the process, the ACU screens out operational or technical issues which can be resolved through bilateral consultations.

2. **The consultative stage.** The ASEAN Compliance Body (ACB), which is modelled after the Textiles Monitoring Body of the World Trade Organization, makes use of peer adjudication with a 90-day deadline for the resolution of disputes between AMS. Although not legally binding, ACB findings can serve as inputs for the more formal dispute settlement mechanism (DSM) in ASEAN.

Alternatively, AMS may agree at any time to resolve their disputes through conciliation and mediation. Under Article 23 of the ASEAN Charter, the Secretary-General of ASEAN can act in an ex-officio capacity to provide good offices, conciliation or mediation.

3. **The adjudicatory stage.** The DSM strongly encourages amicable settlement through non-judicial consultations between the AMS in dispute. The process and timelines are indicated in the table below.

Duration	Process and Action
60 days	Pre-adjudication consultations and mediations
45 days	SEOM establishes DSM panels and appoints panellists
60-70 days	Panel reports, containing legally binding findings and recommendations, to be submitted to SEOM
30 days	SEOM to decide on report adoption (if no appeal)
60-90 days	Appeal proceedings to be reviewed by DSM Appellate Body whose report is to be submitted to SEOM
30 days	SEOM to decide on adoption of appeal report
60 days	Compliance by AMS concerned to report findings and recommendations (unless parties in dispute agree on a longer timeframe for compliance)

A DSM Fund, now established, underwrites the expenses of the Panel, the Appellate Body and the related administration costs of the ASEAN Secretariat. Draw-downs are to be replenished by AMS in the dispute in accordance with the apportioning made by the Panel or Appellate Body.

While no disputes have been raised for adjudication in ASEAN to date, ASEAN is considering improvements to the current arrangements and mechanisms for dispute settlement in the region to ensure that the ASEAN DSM meets the purposes it is designed to serve. -

For more information on DSM, contact Ms. Thitapha Wattanapruttipaisan (thitapha@asean.org), Agreements and Compliance Unit of the Bureau for Economic Integration and Finance at the ASEAN Secretariat.

Please visit www.asean.org/15159.htm and www.asean.org/16754.htm for further information on DSM.