

Policy Brief

Between Reform and Paralysis: Indonesia, WTO Uncertainty, and the Case for the Multi-Party Interim Appeal Arbitration Arrangement (MPIA)

Intan Murnira Ramli and Megawati

Key Messages:

- The WTO dispute settlement system has faced prolonged uncertainty since the Appellate Body (AB) ceased functioning in December 2019.
- Heightened geoeconomic and geopolitical tensions have amplified the need for a predictable, rules-based mechanism for legal review and dispute settlement.
- The MPIA offers a temporary but credible solution to restore confidence in the multilateral trading system. While its long-term role is debated, the MPIA ensures that appeals lodged by members to defend national interests are not left unresolved or 'appealed into the void.'

Indonesia's potential accession to the Multi-Party Interim Appeal Arbitration Arrangement (MPIA) represents a timely and strategic step to restore legal certainty in World Trade Organization (WTO) dispute settlement. The paralysis of the WTO Appellate Body has weakened the multilateral trading system, leaving disputes unresolved and undermining confidence in global trade rules.

The MPIA offers a credible, binding alternative that preserves appellate review. By joining, Indonesia could safeguard its key export sectors, prevent disputes from being 'appealed into the void,' and align with other ASEAN Member States that are already participants.

This policy brief assesses the relevance and implications of MPIA membership for Indonesia, highlights the risks of non-participation, and outlines policy options. It recommends that Indonesia consider joining the MPIA while simultaneously:

- *Advocating for comprehensive WTO reform, and*
- *Leveraging regional mechanisms to safeguard its trade interests.*

1. Certain Uncertainty: The Emergence of MPIA

Context

On 9 July 2025, President Trump announced a 32% tariff on Indonesian exports to the United States (White House, 2025). This measure extended the earlier reciprocal tariff introduced on 'liberation day' (2 April 2025). Although a subsequent announcement on 15 July indicated a partial relaxation of the tariff by 19% following a new deal with Indonesia, the rapid and unpredictable shifts highlight the volatile nature of current geoeconomic dynamics. Similarly, China launched retaliatory measures against the European Union's (EU) public procurement ban, targeting EU medical appliances on 6 July 2025 (CNBC Indonesia, 2025). These developments underscore the uncertainty and instability that characterise global trade today.

Changing Norms in Trade

This fluid environment has encouraged new practices such as friendshoring, where supply chain networks are structured amongst countries with aligned political or economic interests (WEF, 2023).

Intan Murnira Ramli
Senior Policy Fellow, ERIA

Megawati
Trade Policy Fellow, ERIA

For example, the US–Japan Partnership on Semiconductor and Electronics Supply Chains reflects this approach (Converge, 2024). Such practices further complicate the multilateral trading system and increase the importance of robust dispute resolution mechanisms.

The WTO Dispute Settlement Void

The dispute settlement mechanism of the World Trade Organization (WTO), once considered the most distinguished feature of the multilateral trading system, has been paralysed since December 2019 when the Appellate Body (AB) ceased functioning. The deadlock, driven by the United States' consistent blocking of new appointments due to concerns over judicial overreach and procedural shortcomings (Galbraith, 2019), has created a loophole. Members can now file appeals 'into the void,' preventing disputes from being resolved or enforced. This has weakened both the credibility and the functioning of the WTO dispute settlement system, creating what has become a 'certain uncertainty' for member countries.

MPIA as an Interim Response

To address this impasse, the Multi-Party Interim Appeal Arbitration Arrangement (MPIA) was established in 2020 by the EU, China, and several other WTO members. Permitted under Article 25 ('Arbitration') of the WTO Dispute Settlement Understanding (DSU), the MPIA mirrors the structure and procedures of the AB, offering a temporary but binding mechanism for appellate review (Geneva Trade Platform).

Relevance for Indonesia

As of mid-2025, 57 members—including the United Kingdom, Paraguay, and Malaysia—have joined the MPIA. Indonesia, however, remains undecided. Given the current volatility of global trade, participation would help shield Indonesia from disputes being appealed into the void and ensure greater certainty for its export sectors. This policy brief therefore examines the MPIA's relevance for Indonesia and outlines potential options for engagement.

2. The Debate Over MPIA's Existence

The establishment of the MPIA has generated two contrasting views. The United States has been openly critical, often referring to the mechanism as

a 'China–EU arrangement.' In a formal letter to the WTO Director General, the US argued that the MPIA 'incorporates and exacerbates some of the worst aspects of the AB's practices' (Ambassador Shea's formal letter to WTO's Director General, 2020).

In contrast, proponents such as the EU and China view the MPIA as an indispensable interim mechanism for maintaining stability in trade law while broader WTO reforms are under negotiation. The EU's Commissioner for Trade and Economic Security recently stated that:

'Given the current trade tensions, the MPIA is ever more important. It ensures the final and orderly resolution of trade disputes amongst its participants and supports rules-based trade' (European Commission, 2025).

Institutional Design and Independence

To safeguard independence and fairness, arbitrators in MPIA appeals are selected randomly by the WTO Secretariat from a roster of ten individuals nominated by participating countries. Three arbitrators are appointed per case, with selection based on merit and expertise. This mechanism aims to avoid political bias and preserve credibility, echoing the rules-based approach of the Appellate Body.

A Test Amidst EU–China Tensions

The MPIA was designed to offer a fair, rules-based solution to the paralysis of WTO dispute settlement. Yet, its credibility will be tested most severely in disputes involving its two key architects: the EU and China. The recent escalation of their trade war—triggered by Brussels' ban on China's access to EU public procurement markets and Beijing's swift retaliation against EU medical devices (CNBC Indonesia, 2025)—has raised concerns about the MPIA's resilience. Such tit-for-tat measures risk undermining confidence in the stability of policy commitments within the MPIA framework.

Nevertheless, this very tension also underscores why the MPIA is urgently needed. To remain relevant, the mechanism must evolve into more than just a legal backstop: it should also function as a platform for early-warning mediation, capable of diffusing disputes before they escalate into retaliatory trade wars. Moreover, expanding its membership base would not only enhance legitimacy but also strengthen the MPIA's leverage in promoting a rules-based approach over ad hoc bilateral retaliation.

3. Appeal into the Void – Impact on Indonesia

Context

Indonesia has been both complainant and respondent in WTO disputes, frequently involving strategic sectors such as palm oil, fisheries, steel, and nickel. The paralysis of the Appellate Body (AB) directly affects Indonesia’s ability to defend its policies and enforce favorable rulings. With disputes often ending in ‘appeal into the void,’ outcomes remain unresolved and legal uncertainty persists.

Case Study: DS592 – Indonesia: Measures Relating to Raw Materials

One prominent example is DS592: Indonesia–Measures Relating to Raw Materials. The EU filed its complaint on 22 November 2019, contesting Indonesia’s export ban and domestic processing requirements (DPR) for nickel ore.

The WTO Panel circulated its findings on 30 November 2022, ruling in favor of the EU and concluding that Indonesia’s measures violated WTO rules. However, Indonesia filed an appeal on 8 December 2022. Because the AB is not functioning, the case entered ‘appeal into the void.’ As a result, the Panel report cannot be adopted, and no binding ruling can be enforced (WTO DS592).

This situation highlights a structural loophole: whichever party loses at the Panel stage can indefinitely block resolution by appealing.

Impacts of Appeal into the Void

The implications of this legal void vary for complainants and respondents, but both face uncertainty:

Aspect	Respondent (Indonesia)	Complainant (EU)	Systemic/ WTO
Legal	Gains policy flexibility to delay enforcement of adverse rulings.	Faces legal uncertainty as no binding ruling can be enforced.	Weakens credibility of WTO’s rules-based system.
Economic	Short-term ability to maintain contested measures; gains momentum to optimise trade. Risks trade retaliation; reduces investor confidence.	Loss of trade opportunities; prolonged market distortions; increased litigation costs; reduced investor confidence.	Prolonged disputes erode trust in multilateral trade governance.

Both complainant and respondent are unable to provide clarity to firms or investors regarding the dispute’s duration or eventual outcome. This generates distortions in global supply chains and complicates strategic trade policy planning.

Economic Implications for Nickel Trade

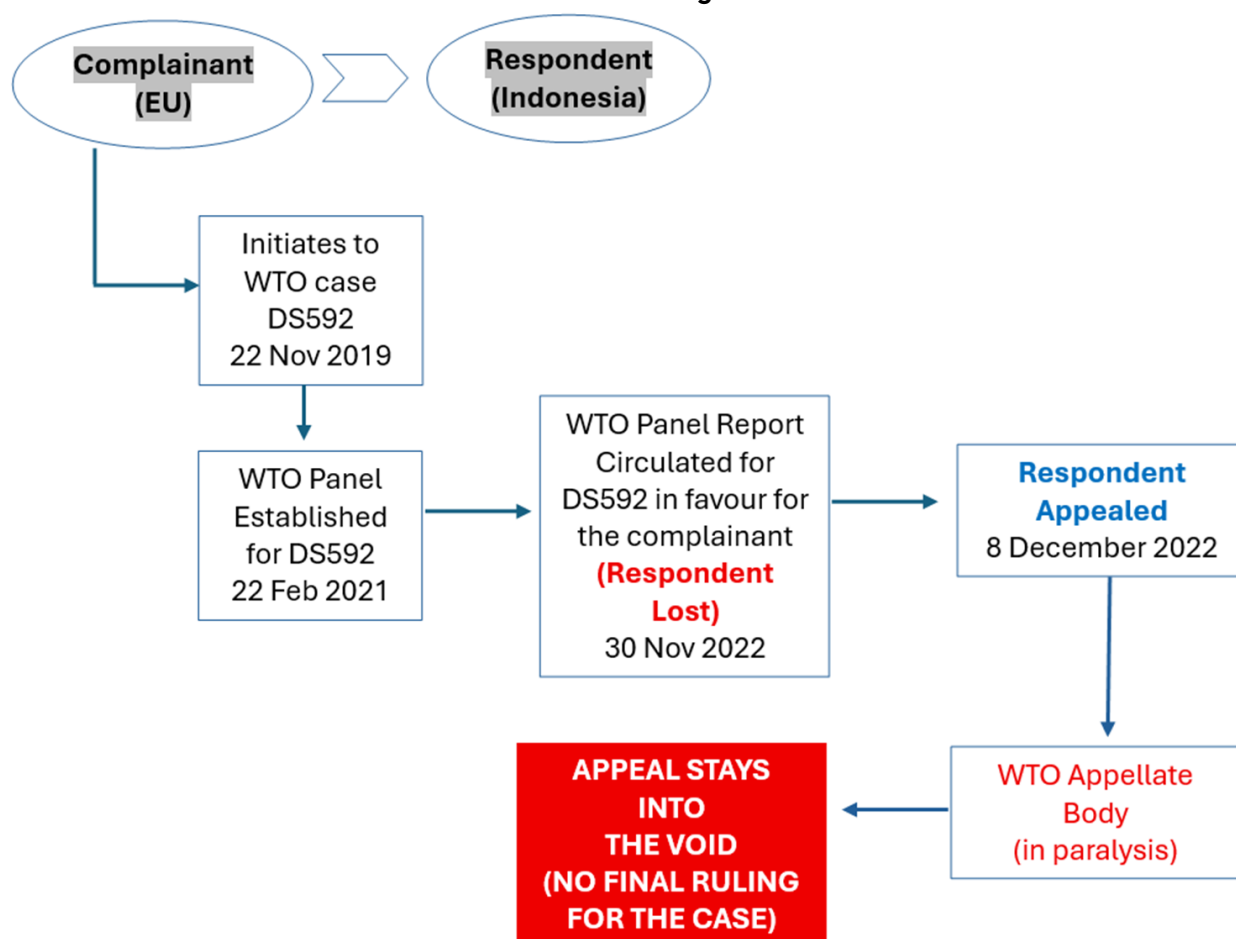
The nickel case illustrates these dynamics:

- Before the export ban (2013), Indonesia’s nickel ore exports (HS 2604) were valued at US\$1.6 billion, representing 25.7% of global imports. After the export ban in 2014, exports fell by 94.9% to US\$85 million, just 1.43% of world imports.
- By contrast, Indonesia’s downstream exports of iron and steel (HS 72) and articles of iron and steel (HS 73) grew sharply. In 2014 alone, exports of HS 72 rose 75.9% to US\$1.1 billion, while combined exports of HS 72 and HS 73 reached US\$3.3 billion. Between 2014–2024, these downstream exports expanded by 31%, totaling US\$29 billion by 2024 (Trademap).
- Meanwhile, EU imports of HS 2604 declined 67.5% from US\$541 million in 2014 to US\$175 million in 2017, reflecting the EU’s loss of market access to Indonesian raw nickel.

Figure 2 illustrates the steep decline in Indonesia’s nickel ore exports following the 2014 export ban and the subsequent marginalisation of its share in world imports.

Thus, while the ‘void’ benefits Indonesia in sustaining its downstream policy, it simultaneously perpetuates uncertainty for EU industries and weakens systemic trust in WTO rules.

Figure 1: Conceptual Framework of ‘Appeal Into the Void’ based on Case Study of DS592: Indonesia-Measures Relating to Raw Materials



Source: Authors' illustration based on the DS592 case.

Comparative Case: DS593 – Palm Oil

A contrasting outcome can be seen in DS593: EU–Certain Measures Concerning Palm Oil and Oil Palm Crop-Based Biofuels. Initiated by Indonesia on 9 December 2019, the Panel ruled in Indonesia's favor on 10 January 2025. As the EU did not appeal, the ruling was adopted and enforceable by 24 February 2025, with implementation scheduled by 24 February 2026 (WTO DS593 Documents, 2025).

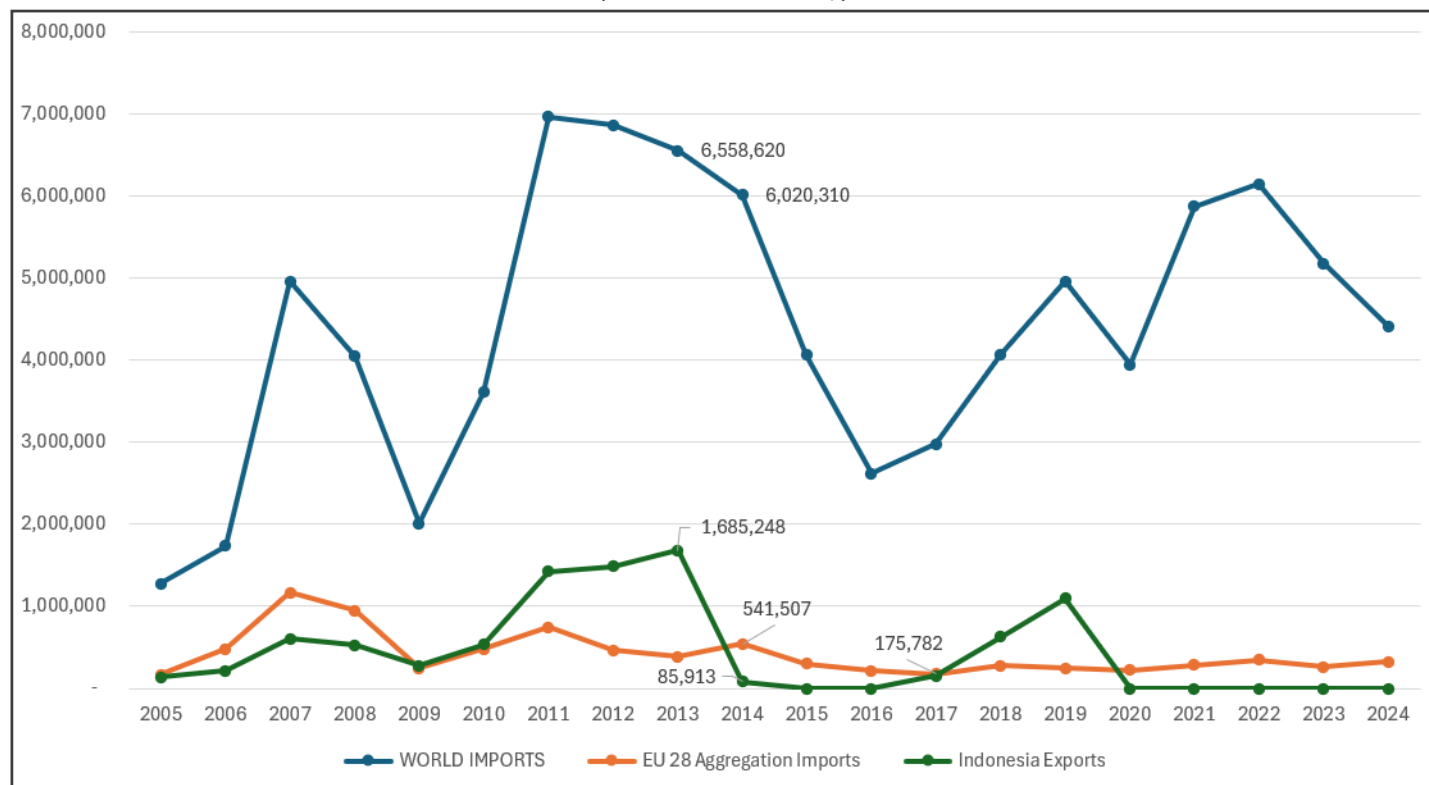
This case illustrates how, without an appeal, disputes can still be resolved – though the risk of appeal 'into the void' remains ever-present.

Relevance for Indonesia

The MPIA offers a way out of this stalemate. Since its establishment, it has resolved two disputes – DS591 (Colombia–Frozen Fries) and DS583 (Turkey–Pharmaceutical Products) – both with enforceable rulings in favor of the EU (Geneva Trade Platform). Current MPIA disputes include DS607 (Brazil–EU) and DS610/DS611 (EU–China).

Because Indonesia is not a party to the MPIA, it lacks access to appellate review with major trading partners such as the EU, China, the UK, Canada, and Malaysia. This exposes Indonesian exporters to unresolved disputes and increases the risk of facing persistent trade barriers without recourse.

**Figure 2: Trade Performance of HS Code 2604 Nickel Ores and Concentrates Year 2005-2024
(in Thousand US\$)**



Source: Trademap ITC calculations based on UN COMTRADE and ITC statistics.

4. Policy Recommendations

As WTO reform remains elusive, and in light of the ongoing geoeconomic shifts, the Government of Indonesia may wish to consider the following policy options:

- **Reassess Participation in the MPIA**

Rejoining the MPIA would restore Indonesia's ability to pursue or defend appellate review, ensure panel decisions are enforceable, and prevent cases involving the EU, China, and other MPIA members from being 'appealed into the void.'

- **Consider Conditional Engagement**

Debate on the MPIA's effectiveness is ongoing within the Indonesian government (Jakarta Globe, 2025). Indonesia could signal readiness to join with clear conditions, including: stronger commitments to further reform, greater transparency in arbitrator selection, regular reporting of MPIA activities, and possibly an initial observer status before full participation.

- **Push for Universal WTO Reform**

Consistent with its support for multilateralism, Indonesia should continue advocating for the full restoration and reform of the WTO Appellate Body. Lessons drawn from the MPIA's functioning could inform this effort. The upcoming WTO Ministerial Conference in Yaoundé (2026) offers a critical opportunity to advance this agenda.

- **Promote ASEAN Cohesion**

Indonesia can take a leadership role in forging a common ASEAN position on dispute settlement reform, ensuring the bloc supports solutions that are practical, inclusive, and responsive to members' needs.

- **Leverage Ad Hoc Arrangements Where Needed**

In cases where the MPIA is not applicable, Indonesia should utilise alternative mechanisms, such as ad hoc arbitration under Article 25 of the WTO DSU or regional frameworks like the RCEP (Chapter 19, Dispute Settlement) and ATIGA (ASEAN Dispute Settlement). These options provide viable

substitutes for appellate review, particularly with trading partners outside the MPIA framework.

Through these measures, Indonesia can mitigate the negative impacts of the WTO Appellate Body's paralysis and maintain credibility in the rules-based trading system.

Conclusion

The MPIA is neither perfect nor permanent, but it represents the most practical and rules-based mechanism currently available to ensure appellate review and legal certainty in trade disputes. Remaining outside the MPIA risks leaving key disputes unresolved and undermining confidence in Indonesia's commitment to the multilateral system.

While comprehensive WTO reform remains the ultimate goal, MPIA participation offers Indonesia an immediate safeguard to protect its strategic trade interests and preserve trust in international trade governance until the Appellate Body is fully restored.

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Sentral Senayan II, 5th, 6th, 15th floors
Jalan Asia Afrika No. 8
Senayan, Central Jakarta 10270, Indonesia
Tel: (62-21) 57974460 Fax: (62-21) 57974463
E-mail: contactus@eria.org

