

**MULTILATERAL TRADE
NEGOTIATIONS
THE URUGUAY ROUND**

RESTRICTED

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Negotiating Group on Dispute Settlement

COMMUNICATION FROM ARGENTINA

The following communication has been received on 9 November 1987 from the delegation of Argentina with the request that it be circulated to members of the Group.

This communication from the Argentine delegation reflects its position on some major aspects without constituting its comprehensive position on all the issues relating to dispute settlement machinery.

Argentina agrees on the essential point that everything must be done to ensure that trade disputes are settled through the conciliation mechanism and thus avoid recourse to panels of working parties.

We are prepared to go along with any proposal aimed at improving conciliation procedures, provided they do not hinder an effective dispute settlement system. In any event, whatever efforts may be made through conciliation, it will always be necessary to leave open the possibility for a contracting party to bring a dispute before a panel.

The greatest obstacle encountered in dispute settlement has been the difficulty of getting the report adopted by the CONTRACTING PARTIES and the panel's recommendations implemented.

Here, the dispute settlement provisions agreed on in the Ministerial Declaration of 1982 have made some improvement in the way the system works. However, we believe that it is necessary to go a little further into the matter, and this should be done in two directions:

- (a) The contracting parties involved in the dispute must be explicitly excluded from the decision-making by the CONTRACTING PARTIES or Council, to which end it is necessary to redraft paragraph (x) of the 1982 Ministerial Declaration (regarding dispute settlement procedures);

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- (b) secondly, the "Understanding on Notification, Consultation, Surveillance and Dispute Settlement", adopted on 28 November 1979, should be supplemented so as to include in future the estimation of the "retroactive prejudice" caused by a measure applied by a contracting party, once the CONTRACTING PARTIES have taken the decision on the basis of the panel's report.

This retroactive prejudice should be evaluated from the time when the measure in question in the case entered into force, and not from the time when the dispute was referred to the CONTRACTING PARTIES.

It is suggested that, during the panel's discussions, the affected contracting party should carry out an evaluation of the prejudice so that the panel may make a recommendation on this point, for decision by the CONTRACTING PARTIES.