

**MULTILATERAL TRADE  
NEGOTIATIONS  
THE URUGUAY ROUND**

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Group of Negotiations on Goods (GATT)  
Negotiating Group on Dispute Settlement

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STATEMENT BY THE SPOKESMAN OF THE EUROPEAN COMMUNITY  
AT THE MEETING ON 5-6 APRIL

One of the aims of the Uruguay Round negotiations is to "strengthen the rôle of GATT, improve the multilateral trading system based on the principles and rules of the GATT, and bring about a wider coverage of world trade under agreed, effective and enforceable multilateral disciplines".

This implies that when the parties to the negotiations develop suitable rules and disciplines, they should be prepared to modify the current dispute settlement system to ensure that the results of the negotiations are implemented in an appropriate manner.

A number of procedural improvements are already provisionally in place; they stem from the agreements adopted during the Mid-Term Review.

Accomplishing the objectives set at Punta del Este for all the sectors included in the negotiations would make it possible not only to definitively adopt the improvements mentioned above, but also to supplement them with a substantially improved dispute settlement system capable of maintaining the balance of rights and obligations achieved. Such a balance would require clear rules applying to all the parties to the Agreement, with due account taken of their level of development. This would also entail eliminating the grandfather clause and either eliminating the derogations which currently operate or making them subject to more stringent rules, such as those put forward by the Community. It goes without saying that a substantial improvement can only be achieved if the parties give an unequivocal and irreversible undertaking to fully respect the commitments they have made in connection with the Agreement and its Codes, and to bring their legislation into line with the obligations concerned. This means notably that all parties will have to refrain from unilateral measures which are incompatible with a multilateral approach to the settlement of disputes.

By these means and by subscribing to the results of the negotiations, the parties would also be able to adopt a stronger dispute settlement system.

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A strengthening of the system would make it possible to assure the parties that the panel's opinions and recommendations were prepared with the independence, clarity and expertise needed to prevent conflict as far as possible. For this reason, the professionalism of the members of the panels should be enhanced by appointing them from a relatively short roster of people unconnected with national administrations and possessing legal, economic and commercial experience. As a matter of routine, diplomatic staff en poste in Geneva would not sit on the panels unless the parties to the dispute gave their assent.

Panel reports produced in this manner would be put to the GATT Council.

If one of the parties to the dispute felt that the legal considerations which led the panel to conclude that a violation of undertakings had taken place were erroneous or incomplete, it would have the option of taking its case to an appeals body, which would accept or reject the appeal depending on its assessment of its validity.

The composition and operation of this appeals body should be authoritative. It should therefore be made up of a small number of eminent figures known for their in-depth knowledge of trade policy issues and their professional experience of legal and economic problems. They should be appointed for a sufficient length of time by the GATT Council on proposals from the Director-General or contracting parties. The body would be assisted by a small team independent from the GATT secretariat.

If the conditions mentioned earlier are complied with, it might be possible to adapt the current full consensus procedure.

In order to make the system coherent and efficient, implementation of panel recommendations adopted by the contracting parties should be improved. When adopting the conclusions of a panel, therefore, the Council should fix an appropriate deadline for implementation.

Consideration should be given in cases of violation to temporary compensation proportionate to the damage suffered by the injured party, to ensure that compliance is not unduly delayed by internal problems on the part of the party obliged to amend its legislation.

If the injured party does not succeed in obtaining either a withdrawal of the measures or appropriate compensation within this deadline, the Council would look favourably on a request from that party for authorization to withdraw concessions if the request was considered to be consistent with the degree of injury suffered.

In cases of non-violation, no appeal would be possible (unless the parties in dispute gave their assent), but it would be stressed that the contracting parties concerned could agree either to a binding arbitration procedure or a conciliation procedure. Current practice (consensus) concerning the adoption of panel reports would apply; in cases of withdrawal of concessions (see above).