

From the outset of the Uruguay Round the issue of the adoption of panel reports has been at the center of the call to improve the existing dispute settlement system. Many contracting parties consider that the present system of adoption of panel reports by consensus weakens the dispute settlement system since a "losing" contracting party can block adoption. At the same time, however, they recognize the political importance of adoption and the perceived need for all contracting parties, including the "losing" party, to be associated with adoption.

Those contracting parties that support the need for panel reports to be adopted continue to believe that a contracting party to the dispute should have the opportunity to participate fully in the consideration of the report by the contracting parties. At the same time, however, contracting parties recognize that if a "losing" party blocks the adoption of a panel report, it runs the risk that some contracting parties will turn to unilateral action. In order to contain the threat of unilateral action, while at the same time providing for the situation of seriously flawed panel reports, it has been suggested that changes to the present system of adoption are required.

The Mid-Term Review improvements provide that parties to a dispute have the right to participate fully in the consideration of panel reports by Council. To this end, contracting parties having objections to panel reports must give written reasons to explain their objections at least 10 days prior to the Council meeting at which the panel report will be considered. In addition, in order to provide sufficient time for the members of the Council to consider panel reports, panel reports cannot appear on the agenda of Council for adoption until at least thirty days after their circulation to contracting parties. These procedural improvements, coupled with the additional panel review stage proposed above, should ensure that contracting parties are in a position to give full and careful consideration to panel reports the first time they appear before the Council for adoption.

At that Council meeting consideration of the panel report would take place. This would lead either to adoption of the panel report or, if a party to the dispute considered that the report merited further consideration and objected to adoption at that meeting, the report would be referred for Appellate review.*

*Under this approach contracting parties not parties to the dispute, including those that have made third party submissions, could neither block adoption nor send the report to Appellate review.